

Act No. 129
Public Acts of 2018
Approved by the Governor
May 2, 2018
Filed with the Secretary of State
May 3, 2018
EFFECTIVE DATE: May 3, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. Miller

ENROLLED HOUSE BILL No. 5669

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 2, 497c, 523, 523a, 761, and 813 (MCL 168.2, 168.497c, 168.523, 168.523a, 168.761, and 168.813), section 2 as amended by 2003 PA 302, section 497c as added and sections 523, 761, and 813 as amended by 2012 PA 523, and section 523a as added by 2004 PA 92.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

- (a) “Absent voter” is defined in section 758.
- (b) “Ballot container” is defined in section 14a.
- (c) “Business day” or “secular day” means a day that is not a Saturday, Sunday, or legal holiday.
- (d) “Clearly observable boundaries” is defined in section 654a.
- (e) “Election” means an election or primary election at which the electors of this state or of a subdivision of this state choose or nominate by ballot an individual for public office or decide a ballot question lawfully submitted to them.
- (f) “Election precinct” is defined in section 654.
- (g) “Fall” state and county conventions and “spring” state and county conventions are assigned meanings in section 596.
- (h) “General election” or “general November election” means the election held on the November regular election date in an even numbered year.
- (i) “Identification for election purposes” means, if issued to the individual presenting the card or document and if presented for voting purposes the name on the card or document sufficiently matches the individual’s name in his or her voter registration record so as to accurately identify the individual as the registered elector, or if issued to the individual presenting the card or document and if presented for voter registration purposes, any of the following:
 - (i) An operator’s or chauffeur’s license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an enhanced driver license issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(ii) An official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, or an enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(iii) A current operator's or chauffeur's license issued by another state.

(iv) A current state personal identification card issued by another state.

(v) A current state government issued photo identification card.

(vi) A current United States passport or federal government issued photo identification card.

(vii) A current military photo identification card.

(viii) A current tribal photo identification card.

(ix) A current student photo identification card issued by a high school in this state, an institution of higher education in this state described in section 4, 5, or 6 of article VIII of the state constitution of 1963, a junior college or community college established under section 7 of article VIII of the state constitution of 1963, or another accredited degree or certificate granting college or university, junior college, or community college located in this state.

(j) "Immediate family" means an individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.

Sec. 497c. (1) Subject to subsection (2), a person who applies in person to register to vote at a department of state office, a designated voter registration agency, the office of a county clerk, or the office of the clerk of the city or township in which the applicant resides shall identify himself or herself by presenting identification for election purposes.

(2) If a person who applies in person to register to vote as provided in subsection (1) does not possess identification for election purposes, the person may sign an affidavit to that effect and be allowed to register to vote. However, the person remains subject to any applicable federal identification requirements under the help America vote act of 2002 until those identification requirements are satisfied.

Sec. 523. (1) Except as otherwise provided in subsection (2), at each election, before being given a ballot, each registered elector offering to vote must identify himself or herself by presenting identification for election purposes, and by executing an application, on a form prescribed by the secretary of state, in the presence of an election official that includes all of the following:

(a) The name of the elector.

(b) The elector's address of residence.

(c) The elector's date of birth.

(d) An affirmative statement by the elector that is included in the signature statement indicating that he or she is a citizen of the United States.

(e) The elector's signature or mark.

(2) If an elector's signature contained in the qualified voter file is available in the polling place, the election official shall compare the signature upon the application with the digitized signature provided by the qualified voter file. If an elector's signature is not contained in the qualified voter file, the election official shall process the application in the same manner as applications are processed when a voter registration list is used in the polling place. If voter registration lists are used in the precinct, the election inspector shall determine if the name on the application to vote appears on the voter registration list. If the name appears on the voter registration list, the elector shall provide further identification or other information stated upon the voter registration list. If the signature or an item of information does not correspond, the vote of the person must be challenged, and the same procedure must be followed as provided in this act for the challenging of an elector. If the elector does not have identification for election purposes as required under this section, the individual shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, an elector being allowed to vote without identification for election purposes as required under this section is subject to challenge as provided in section 727.

(3) If, upon a comparison of the signature or other identification as required in this section, it is found that the applicant is entitled to vote, the election officer having charge of the registration list shall approve the application and write his or her initials on the application, after which the number on the ballot issued must be noted on the application. The application serves as 1 of the 2 poll lists required to be kept as a record of a person who has voted. The application must be filed with the township, city, or village clerk. If voter registration cards are used in the precinct, the date of the election must be noted by 1 of the election officials upon the precinct registration card of each elector voting at an election. If voter registration lists are used in the precinct, the election official shall clearly indicate upon the list each elector voting at that election. The clerk of a city, village, or township shall maintain a record of voting participation for each registered elector.

Sec. 523a. (1) If an individual who has applied to register to vote on or before the close of registration appears at a polling place on election day and completes an application under section 523 is not listed on the voter registration list, the election inspector shall issue a ballot to the individual as follows:

(a) For an individual who presents a receipt issued by a department of state office, a designated voter registration agency, or the elector's county, city, or township clerk's office verifying the acceptance of a voter registration application before the close of registration and completes a new voter registration application, the election inspector shall allow the individual to vote a ballot in the same manner as an elector whose name is listed on the voter registration list.

(b) For an individual who does not present a receipt verifying the acceptance of a voter registration application under subdivision (a), the election inspector shall determine whether the individual is in the appropriate polling place based on residence information provided by the individual. The election inspector shall review any documents or maps in the polling place or communicate with the city or township clerk to verify the appropriate polling place for the individual. The election inspector shall direct an individual who is not in the appropriate polling place to the appropriate polling place. If the individual refuses to go to the appropriate polling place, the election inspector shall issue the individual a provisional ballot that is processed according to subsection (5).

(2) Except for an individual who produces a receipt under subsection (1)(a), the election inspector shall require an individual who is not listed on the voter registration list to execute a sworn statement affirming that the individual submitted a voter registration application before the close of registration and is eligible to vote in the election. An individual who provides false information in a signed sworn statement under this subsection is guilty of perjury. An individual signing a sworn statement shall complete a new voter registration application. The individual shall state the approximate date and in what manner the registration application was submitted:

- (a) To a department of state office.
- (b) To a designated voter registration agency.
- (c) To the office of his or her county, city, or township clerk.
- (d) By a mailed application.

(3) The election inspector shall contact the city or township clerk to verify whether the individual who signed the sworn statement under subsection (2) is listed in the registration records of the jurisdiction or whether there is any information contrary to the content of the sworn statement.

(4) If the city or township clerk verifies the elector information and finds no information contrary to the information provided by the individual in the sworn statement and the individual presents identification for election purposes that contains a current residence address to establish his or her identity and residence address, the individual is permitted to vote a provisional ballot that is tabulated on election day in the same manner as an elector whose name is listed on the voter registration list, except that the election inspectors shall process the ballot as a challenged ballot under sections 745 and 746.

(5) If the election inspector is not able to contact the city or township clerk, the individual is not in the correct precinct, or the individual is unable to present identification for election purposes that contains a current residence address, the individual must be issued a provisional ballot that is not tabulated on election day but is secured for verification after the election. A provisional ballot must also be issued under this subsection to a voter who presents identification for election purposes that does not bear the voter's current residence address, if the voter also presents a document to establish the voter's current residence address. The election inspector shall accept a document containing the name and current residence address of the voter as sufficient documentation to issue a provisional ballot if it is 1 of the following documents:

- (a) A current utility bill.
- (b) A current bank statement.
- (c) A current paycheck, government check, or other government document.

(6) A provisional ballot must be placed in a provisional ballot return envelope prescribed by the secretary of state and delivered to the city or township clerk after the polls close in a manner as prescribed by the secretary of state.

(7) For a provisional ballot voted under subsection (4), the election inspector shall provide the voter with a notice that his or her ballot has been tabulated. For a provisional ballot voted under subsection (5), the election inspector shall provide the voter with a notice that the voter's information will be verified by the clerk of the jurisdiction within 6 days after the election to determine whether the ballot will be tabulated and, if the ballot is not tabulated, to determine the reason it was not tabulated. A clerk of a jurisdiction shall provide a free access system for the voter to determine whether the ballot was tabulated. The free access system may include a telephone number that does not require a toll charge, a toll-free telephone number, an internet website, or a mailed notice.

(8) As used in this section and sections 813 and 829, "provisional ballot" means a special ballot utilized for an individual who is not listed on the voter registration list at the polling place that is tabulated only after verification of the individual's eligibility to vote.

Sec. 761. (1) 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.

(2) The qualified voter file must be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons must 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. 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, must 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 must 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 must 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 must 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 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
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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 identification for election purposes. If an elector does not have identification for election purposes, 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 is registered in that city, village, or township and 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 identification for election purposes 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 identification for election purposes required under this subsection, the absent voter ballot of that elector must be prepared as a challenged ballot as provided in section 727 and must be counted as any other ballot is counted unless determined otherwise by a court of law under section 747 or 748 or any other applicable law.

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 must 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 identification for election purposes, along with a current utility bill, bank statement, paycheck, government check, or other government document to establish the voter's current residence address if the identification for election purposes used by the elector does not contain the voter's current residence address. 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 must 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 must 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(2). The affidavit report must be transmitted to the county clerk in a form prescribed by the secretary of state.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor