

ABSENT VOTER BALLOT APPLICATION VIOLATIONS

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House Bill 4132 (H-1) as reported from committee
Sponsor: Rep. Pauline Wendzel

Analysis available at
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House Bill 4133 (H-1) as reported from committee
Sponsor: Rep. Ann Bollin

1st Committee: Elections and Ethics
2nd Committee: Judiciary
Complete to 3-16-21

SUMMARY:

House Bill 4132 would amend Chapter 28 (Holding of Elections) of the Michigan Election Law.

Under the bill, a person who knowingly filled out and submitted or caused to be submitted an absent voter (AV) ballot application containing or using another person's name and personal ID information, except as otherwise expressly authorized by law, would be guilty of a felony.

Currently and under HB 4132, the following people may be in possession of a signed AV ballot application:

- The applicant.
- A member of the applicant's immediate family.
- A person residing in the applicant's household.
- A mail carrier in the course of his or her employment.
- A registered elector requested by the applicant to return the application (who has signed the included certificate that indicates that he or she has not solicited the application, did not alter it, and is aware of the penalties for violation of election law.)
- A clerk or other authorized election official.

The bill would additionally make it a felony for a person to knowingly fill out and submit or cause to be submitted an AV voter ballot application with the intent to obtain multiple AV ballots for a person.

Finally, under current law it is a misdemeanor for a person to make a false statement in an AV ballot application and a felony for a person to submit a forged signature on an absentee ballot application. The bill would remove these provisions and instead make it a felony to knowingly submit an AV ballot application containing false information or a forged signature.

Under the Election Law, a felony for which no other penalty is provided is punishable by imprisonment for up to five years or a fine of up to \$1,000, or both.

MCL 168.759

House Bill 4133 would amend the Code of Criminal Procedure to classify all three violations added to the Election Law by HB 4132 as Class E felony offenses against the public trust, punishable by a statutory maximum of five years' imprisonment.

House Bill 4133 is tie-barred to HB 4132, which means that it could not take effect unless HB 4132 were also enacted.

MCL 777.11d

BACKGROUND:

The bills are reintroductions of House Bills 5880 and 5881, and of Senate Bills 977 and 978, of the 2019-20 legislative session. Senate Bill 977 and House Bill 5881 were passed by both houses and enrolled, but were vetoed by Governor Whitmer on October 16, 2020. In her veto message, the governor said that current law concerning voter fraud "is crystal clear," and argued that the bills "would muddy the waters, and would likely confuse voters about what conduct is actually criminal."¹

FISCAL IMPACT:

House Bill 4132 would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, a person who knowingly submits an absent voter ballot application using another person's name and personal identification, a person who knowingly submits an absent voter ballot application with intent to obtain multiple absent voter ballots, or a person who knowingly submits an AV ballot application containing false information or a forged signature would be guilty of a felony. The number of convictions that would result under the bill is not known. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2019, the average cost of prison incarceration in a state facility was roughly \$39,400 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,800 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

¹ https://content.govdelivery.com/attachments/MIEOG/2020/10/16/file_attachments/1573072/HB%205881%20Veto%20Letter.pdf

House Bill 4133 is a companion bill to House Bill 4132 and amends sentencing guidelines to include the offenses of knowingly submitting an absent voter ballot application using another person's name, knowingly submitting an absent voter ballot application with intent to obtain multiple absent voter ballots, and knowingly submitting an AV ballot application containing false information or a forged signature. The bill would not have a direct fiscal impact on the state or on local units of government.

POSITIONS:

A representative of the Department of State testified in support of the bills. (2-16-21)

The Michigan Farm Bureau indicated support for the bills. (2-16-21)

The American Association of University Women of Michigan indicated no position on the bills. (2-16-21)

The following entities indicated opposition to the bills:

- Michigan League for Public Policy (2-9-21)
- ACLU Michigan (2-9-21)
- League of Women Voters of Michigan (3-8-21)

Legislative Analyst: Jenny McInerney

Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.