

# SENATE BILL NO. 279

March 24, 2021, Introduced by Senators JOHNSON, LASATA, HORN, THEIS, STAMAS, ZORN, BIZON, BARRETT, VICTORY, DALEY, BUMSTEAD, OUTMAN and VANDERWALL and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 730 and 764d (MCL 168.730 and 168.764d), section 730 as amended by 1995 PA 261 and section 764d as added by 2020 PA 95.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**       Sec. 730. (1) At an election, a political party or an  
**2** incorporated organization or organized committee of citizens  
**3** interested in the adoption or defeat of a ballot question being  
**4** voted for or upon at the election, or interested in preserving the

1 purity of elections and in guarding against the abuse of the  
 2 elective franchise, may designate challengers as provided in this  
 3 act. Except as otherwise provided in this act, a political party,  
 4 incorporated organization, or organized committee of interested  
 5 citizens may designate not more than 2 challengers to serve in a  
 6 precinct at any 1 time. ~~A-Except as otherwise provided in this act,~~  
 7 **a** political party, incorporated organization, or organized  
 8 committee of interested citizens may designate not more than 1  
 9 challenger to serve at each **absent voter** counting board.

10 (2) A challenger ~~shall~~**must** be a registered elector of this  
 11 state. Except as otherwise provided in this section, a candidate  
 12 for nomination or election to an office shall not serve as a  
 13 challenger at the election in which he or she is a candidate. A  
 14 candidate for the office of delegate to a county convention may  
 15 serve as a challenger in a precinct other than the ~~1-one~~ in which  
 16 he or she is a candidate. ~~A person~~**An individual** who is appointed  
 17 as an election inspector at an election shall not act as a  
 18 challenger at any time during the election day.

19 (3) A challenger may be designated to serve in more than 1  
 20 precinct **or absent voter counting board**. The political party,  
 21 incorporated organization, or organized committee of interested  
 22 citizens shall indicate which precincts **or absent voter counting**  
 23 **boards** the challenger will serve when designating challengers under  
 24 subsection (1). If more than 1 challenger of a political party,  
 25 incorporated organization, or organized committee of interested  
 26 citizens is serving in a precinct **or absent voter counting board** at  
 27 any 1 time, only 1 of the challengers has the authority to initiate  
 28 a challenge at any given time. The challengers shall indicate to  
 29 the board of election inspectors which of the ~~2-will have~~

1 **challengers has** this authority. The challengers may change this  
2 authority and shall indicate the change to the board of election  
3 inspectors.

4 (4) If an absent voter counting board or absent voter counting  
5 boards are established by an agreement entered into under section  
6 764d(1) (a), (b), or (c), and the county, city, or township clerk  
7 responsible for counting the absent voter ballots under that  
8 agreement assigns more than 2,999 absent voter ballots to be  
9 counted by a single absent voter counting board, a political party,  
10 incorporated organization, or organized committee of interested  
11 citizens may designate the following to that absent voter counting  
12 board:

13 (a) Two challengers for the initial 2,999 absent voter ballots  
14 assigned to be counted at that absent voter counting board.

15 (b) One additional challenger for every 2,999 absent voter  
16 ballots over the initial 2,999 absent voter ballots assigned to be  
17 counted at that absent voter counting board.

18 (5) If an absent voter counting board continues to work after  
19 the polls close on election day, a political party, incorporated  
20 organization, or organized committee of interested citizens that  
21 designated a challenger or challengers to that absent voter  
22 counting board may, after the polls close on election day, replace  
23 that challenger or those challengers in that absent voter counting  
24 board. Any challenger designated to replace another challenger  
25 under this subsection must meet the requirements under subsection  
26 (2).

27 Sec. 764d. (1) Notwithstanding any provision of law to the  
28 contrary and subject to subsections (2) and (12), not less than 75  
29 days before the day of an election, the clerk of a city or township

1 may do any of the following:

2 (a) Enter into an agreement with the clerk of another city or  
3 township, or with the clerks of more than 1 city or township,  
4 located in the same county as that city or township to establish a  
5 combined absent voter counting board **or combined absent voter**  
6 **counting boards** to count the absent voter ballots for each  
7 participating city or township.

8 (b) Enter into an agreement with the clerk of another city or  
9 township located in the same county that authorizes the clerk of 1  
10 participating city or township to process and count the absent  
11 voter ballots for both participating entities by utilizing the  
12 absent voter counting board **or absent voter counting boards** of that  
13 participating city or township.

14 (c) Enter into an agreement with the clerk of the county in  
15 which that city or township is located to establish an absent voter  
16 counting board **or absent voter counting boards** to count the absent  
17 voter ballots for that city or township. If a city or township has  
18 boundaries located in more than 1 county, the clerk of the city or  
19 township shall only enter into an agreement under this subdivision  
20 with the county clerk of the county in which the majority of the  
21 electors of the city or township reside.

22 (2) Except as otherwise provided in this subsection, an absent  
23 voter counting board established under subsection (1) must not be  
24 used for the first time at a general November election. For the  
25 November 3, 2020 general November election, an absent voter  
26 counting board may be established under subsection (1) and used for  
27 the first time if either of the following occurs:

28 (a) An agreement is entered into under subsection (1)(a) or  
29 (b) and at least 1 of the clerks participating in the agreement has

1 previously operated an absent voter counting board.

2 (b) An agreement is entered into under subsection (1)(c).

3 (3) An agreement entered into under subsection (1)(b) or (c)  
4 must comply with the established approval procedures of the  
5 governing body of each county, city, or township involved, or if  
6 established approval procedures do not exist, the agreement must be  
7 approved by resolution of the governing body of that county, city,  
8 or township.

9 (4) The bureau of elections shall do both of the following:

10 (a) Develop model language to be used by county, city, and  
11 township clerks for agreements entered into under subsection (1).

12 (b) Develop procedures to implement this section.

13 (5) Except as otherwise provided in this subsection, if the  
14 clerk of a city or township enters into an agreement under  
15 subsection (1), the clerk of that city or township shall file the  
16 agreement with the county clerk of the county in which that city or  
17 township is located no later than 74 days before the election at  
18 which the agreement applies. For an election occurring before  
19 January 1, 2021, the clerk of a city or township who enters into an  
20 agreement under subsection (1) is not required to file the  
21 agreement with the county clerk if all of the following apply:

22 (a) The electronic voting system used by the county can be  
23 programmed to accommodate an absent voter counting board formed  
24 under subsection (1).

25 (b) The county clerk agrees that the electronic voting system  
26 used by the county can be altered after completion of the ballot  
27 programming.

28 (c) The appropriate board of election commissioners publicly  
29 tests the electronic tabulating equipment as required under section

1 798.

2 (6) If the clerk of a city or township enters into an  
 3 agreement under subsection (1) and that agreement covers more than  
 4 1 election, the agreement must allow any participating clerk to  
 5 terminate the agreement by giving 84 days' written notice to each  
 6 of the other participating clerks. If the clerk terminating the  
 7 agreement is a city or township clerk, the clerk must also file the  
 8 notice of termination with the county clerk of the county in which  
 9 that city or township is located no later than 2 business days  
 10 after the date of termination. If the clerk terminating the  
 11 agreement is a county clerk, the clerk must also file the notice of  
 12 termination with the bureau of elections no later than 2 business  
 13 days after the date of termination.

14 (7) For ~~a~~**each** combined absent voter counting board  
 15 established under subsection (1)(a), all of the following apply:

16 (a) The board of election commissioners of each participating  
 17 city or township must appoint at least 1 election inspector to that  
 18 combined absent voter counting board not less than 21 days or more  
 19 than 40 days before the election at which those election inspectors  
 20 are to be used. Sections 673a and 674 apply to the appointment of  
 21 election inspectors to ~~a~~**each** combined absent voter counting board.

22 (b) The agreement entered into under subsection (1)(a) must  
 23 designate the place for ~~the~~**each** combined absent voter counting  
 24 board to count the absent voter ballots. Section 662 applies to the  
 25 designation and prescribing of the ~~combined absent voter ballot~~  
 26 ~~counting~~ place in which ~~the~~**each** combined absent voter counting  
 27 board performs its duties.

28 (c) The agreement entered into under subsection (1)(a) must  
 29 establish the time at which the election inspectors of ~~the~~**each**

1 combined absent voter counting board report for duty.

2 (8) For ~~an each~~ absent voter counting board established under  
3 subsection (1)(c), all of the following apply:

4 (a) The board of election commissioners of the city or  
5 township entering into an agreement under subsection (1)(c) shall  
6 appoint at least 1 election inspector to the absent voter counting  
7 board and the county board of election commissioners of that county  
8 shall appoint at least 1 election inspector to the absent voter  
9 counting board not less than 21 days or more than 40 days before  
10 the election at which those election inspectors are to be used.  
11 Sections 673a and 674 apply to the appointment of election  
12 inspectors to ~~the each~~ absent voter counting board.

13 (b) In consultation with the parties to an agreement under  
14 subsection (1)(c), the county board of election commissioners shall  
15 designate the place for ~~the each~~ absent voter counting board to  
16 count the absent voter ballots. Section 662 applies to the  
17 designation and prescribing of the ~~absent voter ballot counting~~  
18 place in which ~~the each~~ absent voter counting board performs its  
19 duties.

20 (c) In consultation with the parties to an agreement under  
21 subsection (1)(c), the county board of election commissioners shall  
22 establish the time at which the election inspectors of ~~the each~~  
23 absent voter counting board report for duty.

24 (9) The election inspectors appointed to an absent voter  
25 counting board established under subsection (1) ~~shall must~~ comply  
26 with section 733(2) regarding election challengers.

27 (10) If the clerk of a city or township enters into an  
28 agreement under subsection (1), any absent voter ballot received by  
29 that city or township clerk after 4 p.m. on the day before an

1 election must not be delivered to ~~the~~**an** absent voter counting  
2 board but must instead be delivered to the voting precinct of the  
3 elector on election day to be processed and counted.

4 (11) The provisions of section 765a(8) to (13) apply to ~~an~~  
5 **each** absent voter counting board established under subsection (1).

6 (12) For an election occurring before January 1, 2021, the  
7 clerk of a city or township may enter into an agreement under  
8 subsection (1) not less than 23 days before the day of the election  
9 if all of the following apply:

10 (a) The electronic voting system used by the county can be  
11 programmed to accommodate an absent voter counting board formed  
12 under subsection (1).

13 (b) The county clerk agrees that the electronic voting system  
14 used by the county can be altered after completion of the ballot  
15 programming.

16 (c) The appropriate board of election commissioners publicly  
17 tests the electronic tabulating equipment as required under section  
18 798.

19 (13) This section does not abrogate the duties or  
20 responsibilities of a city or township clerk for conducting  
21 elections under this act. In addition, this section does not  
22 provide any additional duties or responsibilities for the secretary  
23 of state for conducting elections under this act.