

SENATE BILL NO. 311

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

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 759a (MCL 168.759a), as amended by 2012 PA 523, and by adding section 18a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 18a. As used in this act, "United States Department of
2 Defense verified electronic signature" means the certificate-based
3 digital identification code issued to qualified personnel by the

1 **United States Department of Defense as part of the Common Access**
2 **Card, or its successor.**

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

10 (2) Upon the request of an absent uniformed services voter or
11 an overseas voter, the clerk of a county, city, township, or
12 village shall electronically transmit a blank voter registration
13 application or blank absent voter ballot application to the voter.
14 The clerk of a county, city, township, or village shall accept a
15 completed voter registration application or completed absent voter
16 ballot application electronically transmitted by an absent
17 uniformed services voter or overseas voter. A voter registration
18 application or absent voter ballot application submitted by an
19 absent uniformed services voter or overseas voter ~~shall~~**must**
20 contain the signature of the voter.

21 (3) A spouse or dependent of an overseas voter who is a
22 citizen of the United States, is accompanying that overseas voter,
23 and is not a qualified and registered elector anywhere else in the
24 United States, may apply for an absent voter ballot even though the
25 spouse or dependent is not a qualified elector of a city or
26 township of this state.

27 (4) An absent uniformed services voter or an overseas voter,
28 whether or not registered to vote, may apply for an absent voter
29 ballot. Upon receipt of an application for an absent voter ballot

1 under this section that complies with this act, a county, city,
2 village, or township clerk shall forward to the applicant the
3 absent voter ballots requested, the forms necessary for
4 registration, and instructions for completing the forms. If the
5 ballots are not yet available at the time of receipt of the
6 application, the clerk shall immediately forward to the applicant
7 the registration forms and instructions, and forward the ballots as
8 soon as they are available. If a federal postcard application or an
9 application from the official United States ~~department~~**Department**
10 of ~~defense~~**Defense** website is filed, the clerk shall accept the
11 federal postcard application or the application from the official
12 United States ~~department~~**Department** of ~~defense~~**Defense** website as
13 the registration application and shall not send any additional
14 registration forms to the applicant. If the ballots and
15 registration forms are received before the close of the polls on
16 election day and if the registration complies with the requirements
17 of this act, the absent voter ballots ~~shall~~**must** be delivered to
18 the proper election board to be tabulated. If the registration does
19 not comply with the requirements of this act, the clerk shall
20 retain the absent voter ballots until the expiration of the time
21 that the voted ballots must be kept and shall then destroy the
22 ballots without opening the envelope. The clerk may retain
23 registration forms completed under this section in a separate file.
24 The address in this state shown on a registration form is the
25 residence of the registrant.

26 (5) Not later than 45 days before an election, a county, city,
27 township, or village clerk shall electronically transmit or mail as
28 appropriate an absent voter ballot to each absent uniformed
29 services voter or overseas voter who applied for an absent voter

1 ballot 45 days or more before the election.

2 (6) Upon the request of an absent uniformed services voter or
3 overseas voter, the clerk of a county, city, township, or village
4 shall electronically transmit an absent voter ballot to the voter.
5 ~~The~~ **Except as otherwise provided in this subsection, the** voter
6 shall print the absent voter ballot and return the voted ballot by
7 mail to the appropriate clerk. **A member of a uniformed service on**
8 **active duty, by reason of being on active duty, or a member of the**
9 **merchant marine, by reason of service in the merchant marine, who**
10 **is absent from the United States and does not expect to return to**
11 **the residence where the member is otherwise qualified to vote**
12 **before an election may electronically return a voted ballot to the**
13 **appropriate city or township clerk to be counted under the policies**
14 **and procedures established by the secretary of state as set forth**
15 **in subsection (17).**

16 (7) The secretary of state shall prescribe electronic absent
17 voter ballot formats and electronic absent voter ballot
18 transmission methods. Each county, city, township, or village clerk
19 shall employ the prescribed electronic ballot formats to fulfill an
20 absent voter ballot request received from an absent uniformed
21 services voter or overseas voter who wishes to receive his or her
22 absent voter ballot through an electronic transmission. The
23 secretary of state shall establish procedures to implement the
24 requirements in this section and for the processing of a marked
25 absent voter ballot returned by an absent uniformed services voter
26 or overseas voter who obtained his or her absent voter ballot
27 through an electronic transmission.

28 (8) The secretary of state shall modify the printed statement
29 provided under section 761(4) and the absent voter ballot

1 instructions provided under section 764a as appropriate to
2 accommodate the procedures developed for electronically
3 transmitting an absent voter ballot to an absent uniformed services
4 voter or overseas voter. A statement ~~shall~~**must** be included in the
5 certificate signed by the absent voter who obtained his or her
6 absent voter ballot through an electronic transmission that the
7 secrecy of the absent voter ballot may be compromised during the
8 duplication process. The absent voter ballot instructions provided
9 to an absent uniformed services voter or overseas voter ~~shall~~**must**
10 include the proper procedures for returning the absent voter ballot
11 to the appropriate clerk.

12 (9) The size of a precinct ~~shall~~**must** not be determined by
13 registration forms completed under this section.

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

1 district election coordinators, where applicable, the necessary
2 information to enable the city or township clerk and school
3 district election coordinators to forward an absent voter ballot
4 for each applicable election in that calendar year to the absent
5 voter. If the local elections official rejects a voter registration
6 application or absent voter ballot application submitted by an
7 absent uniformed services voter or overseas voter, the election
8 official shall notify the voter of the rejection.

9 (11) An ~~electronic mail~~ **email** address provided by an absent
10 uniformed services voter or overseas voter for the purposes of this
11 section is confidential and exempt from disclosure under the
12 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

13 (12) Under the uniformed and overseas citizens absentee voting
14 act, the state director of elections shall approve a ballot form
15 and registration procedures for absent uniformed services voters
16 and overseas voters.

17 (13) An absent uniformed services voter or an overseas voter
18 may use the federal write-in absentee ballot, in accordance with
19 the provisions of the uniformed and overseas citizens absentee
20 voting act, at a regular election or special election to vote for a
21 local, state, or federal office or on a ballot question. ~~An~~ **Except**
22 **as otherwise provided in this subsection, an** absent uniformed
23 services voter or an overseas voter who uses the federal write-in
24 absentee ballot shall return his or her voted federal write-in
25 absentee ballot by mail to the appropriate clerk. **A member of a**
26 **uniformed service on active duty, by reason of being on active**
27 **duty, or a member of the merchant marine, by reason of service in**
28 **the merchant marine, who is absent from the United States and does**
29 **not expect to return to the residence where the member is otherwise**

1 **qualified to vote before an election may electronically return a**
2 **voted ballot to the appropriate city or township clerk to be**
3 **counted under the policies and procedures established by the**
4 **secretary of state as set forth in subsection (17).** The state
5 bureau of elections shall do both of the following:

6 (a) Make the ballot format for each election available to
7 absent uniformed services voters and overseas voters by ~~electronic~~
8 ~~mail~~**email** or on an internet website maintained by the department
9 of state.

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

14 (14) The clerk of a city, village, or township shall submit to
15 the county clerk of the county in which that city, village, or
16 township is located a written statement no later than 45 days
17 before each election indicating whether absent voter ballots were
18 issued to absent uniformed services voters or overseas voters in
19 compliance with this section and the uniformed and overseas
20 citizens absentee voting act. The city, village, or township clerk
21 shall provide to the county clerk a written explanation describing
22 remedial actions taken by the city, village, or township clerk if
23 the city, village, or township clerk fails to comply with this
24 section and the uniformed and overseas citizens absentee voting
25 act. Not later than 42 days before each election, each county clerk
26 shall submit to the state bureau of elections a written report
27 compiled from the written statements submitted by the city,
28 village, and township clerks. The written report ~~shall~~**must**
29 identify the cities, villages, and townships that complied with the

1 45-day deadline under this subsection, the cities, villages, and
 2 townships that did not comply with the 45-day deadline under this
 3 subsection, but provided a written explanation, and those cities,
 4 villages, and townships that did not comply with the 45-day
 5 deadline under this subsection and that did not provide a written
 6 explanation. The state bureau of elections may require the clerk of
 7 a city, village, or township that did not comply with the 45-day
 8 deadline under this subsection, but provided a written explanation,
 9 to provide additional information. The state bureau of elections
 10 shall require the clerk of a city, village, or township that did
 11 not comply with the 45-day deadline and that did not provide a
 12 written explanation to file a written explanation, describing the
 13 remedial actions taken by the city, village, or township clerk,
 14 within 1 business day after the state bureau of elections notifies
 15 the clerk of that city, village, or township.

16 (15) For a presidential primary election, the secretary of
 17 state shall prescribe procedures for contacting an elector who is
 18 an absent uniformed services voter or an overseas voter, as
 19 described in this section, and who is eligible to receive an absent
 20 voter ballot or who applies for an absent voter ballot for the
 21 presidential primary election, offering the elector the opportunity
 22 to select a political party ballot for the presidential primary
 23 election.

24 (16) The secretary of state shall order a city, village, or
 25 township clerk to extend the ballot receipt deadline for any
 26 absentee voter ballots under this section that were not transmitted
 27 to an absent uniformed services voter or overseas voter in
 28 compliance with subsection (5). The extension ~~shall~~**must** equal the
 29 total number of days beyond the deadline as provided in subsection

1 (5) that the city, village, or township clerk transmitted the
2 requested absentee voter ballots. These absentee voter ballots
3 received during the extension time ~~shall~~**must** be counted and
4 tabulated for the final results of the election provided that the
5 absentee voter ballots are executed and sent by the close of the
6 polls on election day. The election may be formally certified
7 before the end of the extension time if the number of outstanding
8 absentee voter ballots under this subsection will not alter the
9 outcome of the election.

10 (17) **The secretary of state shall promulgate rules that**
11 **establish policies and procedures for the electronic return of**
12 **voted ballots by eligible members. In promulgating rules that**
13 **establish the policies and procedures for the electronic return of**
14 **voted ballots by eligible members, the secretary of state shall**
15 **require an eligible member to use a United States Department of**
16 **Defense verified electronic signature, as that term is defined in**
17 **section 18a, so that the identity of the eligible member can be**
18 **verified utilizing those policies and procedures. A member who is**
19 **unable or unwilling to provide a United States Department of**
20 **Defense verified electronic signature is not eligible to**
21 **electronically return a voted ballot. The secretary of state shall**
22 **take reasonable steps to ensure the integrity and secrecy of voted**
23 **ballots returned electronically. The secretary of state may develop**
24 **and maintain a secure web portal on the secretary of state's**
25 **website to facilitate the electronic return of voted ballots by**
26 **eligible members. No later than January 1, 2022, the secretary of**
27 **state shall promulgate rules pursuant to the administrative**
28 **procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to**
29 **implement this subsection, and the secretary of state must allow**

1 for the electronic return of voted ballots by eligible members
 2 starting no later than the 2022 August primary election. As used in
 3 this subsection, "eligible member" means a member of a uniformed
 4 service on active duty or a member of the merchant marine, as
 5 described in subsection (6) or (13).

6 (18) ~~(17)~~—As used in this section:

7 (a) "Absent uniformed services voter" means any of the
 8 following:

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

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

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

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

23 (i) Employed as an officer or crew member of a vessel
 24 documented under the laws of the United States, a vessel owned by
 25 the United States, or a vessel of foreign-flag registry under
 26 charter to or control of the United States.

27 (ii) Enrolled with the United States for employment or training
 28 for employment, or maintained by the United States for emergency
 29 relief service, as an officer or crew member of a vessel documented

1 under the laws of the United States, a vessel owned by the United
 2 States, or a vessel of foreign-flag registry under charter to or
 3 control of the United States.

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

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

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

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

15 (d) "Uniformed services" means the ~~army, navy, air force,~~
 16 ~~marine corps, coast guard,~~ **Army, Navy, Air Force, Marine Corps, or**
 17 **Coast Guard**, the ~~commissioned corps~~ **Commissioned Corps** of the
 18 ~~public health service,~~ **Public Health Service**, the ~~commissioned~~
 19 ~~corps~~ **Commissioned Corps** of the ~~national oceanic~~ **National Oceanic**
 20 and ~~atmospheric administration,~~ **Atmospheric Administration**, a
 21 reserve component of a uniformed service, or the Michigan ~~national~~
 22 ~~guard~~ **National Guard** as **that term is** defined in section 105 of the
 23 Michigan military act, 1967 PA 150, MCL 32.505.