

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senator Wojno

ENROLLED SENATE BILL No. 259

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 759a and 764a (MCL 168.759a and 168.764a), section 759a as amended by 2022 PA 197 and section 764a as amended by 2020 PA 177.

The People of the State of Michigan enact:

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

(2) Upon the request of an absent uniformed services voter or an overseas voter, the clerk of a county, city, or township shall electronically transmit a blank voter registration application or blank absent voter ballot application to the voter. The clerk of a county, city, or township shall accept a completed voter registration application or completed absent voter ballot application electronically transmitted by an absent uniformed services voter or overseas voter. A voter registration application or absent voter ballot application submitted by an absent uniformed services voter or overseas voter must contain the signature of the voter.

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

(4) An absent uniformed services voter or an overseas voter, whether or not registered to vote, may apply for an absent voter ballot. Upon receipt of an application for an absent voter ballot under this section that complies with this act, a county, city, or township clerk shall forward to the applicant the absent voter ballots requested, the forms necessary for registration, and instructions for completing the forms. If the ballots are not yet available at the time of receipt of the application, the clerk shall immediately forward to the applicant the registration forms and instructions, and forward the ballots as soon as they are available. If a federal postcard application or an application from the official United States Department of Defense website is filed, the clerk shall accept the federal postcard application or the application from the official United States Department of Defense website as the registration application and shall not send any additional registration forms to the applicant. Subject to subsection (18), if the ballots and registration forms are received before the close of the polls on election day and if the registration complies with the requirements of this act, the absent voter ballots must be delivered to the proper election board to be tabulated. If the registration does not comply with the requirements of this act, the clerk shall retain the absent voter ballots until the expiration of the time that the voted ballots must be kept and shall then destroy the ballots without opening the envelope. The clerk may retain registration forms completed under this section in a separate file. The address in this state shown on a registration form is the residence of the registrant.

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

(6) Upon the request of an absent uniformed services voter or overseas voter, the clerk of a county, city, or township shall electronically transmit an absent voter ballot to the voter. Except as otherwise provided in this subsection, the voter shall print the absent voter ballot and return the voted ballot by mail to the appropriate clerk. Subject to subsection (17), beginning January 1, 2024, a member of a uniformed service on active duty, by reason of being on active duty, or a member of the merchant marine, by reason of service in the merchant marine, who is absent from the United States and does not expect to return to the residence where the member is otherwise qualified to vote before an election may electronically return a voted ballot to the appropriate city or township clerk to be counted under the rules promulgated by the secretary of state as set forth in subsection (17).

(7) The secretary of state shall prescribe electronic absent voter ballot formats and electronic absent voter ballot transmission methods. Each county, city, or township clerk shall employ the prescribed electronic ballot formats to fulfill an absent voter ballot request received from an absent uniformed services voter or overseas voter who wishes to receive an absent voter ballot through an electronic transmission. The secretary of state shall establish procedures to implement the requirements in this section and for the processing of a marked absent voter ballot returned by an absent uniformed services voter or overseas voter who obtained an absent voter ballot through an electronic transmission.

(8) The secretary of state shall modify the printed statement provided under section 761(4) and the absent voter ballot instructions provided under section 764a as appropriate to accommodate the procedures developed for electronically transmitting an absent voter ballot to an absent uniformed services voter or overseas voter. A statement must be included in the certificate signed by the absent voter who obtained an absent voter ballot through an electronic transmission that the secrecy of the absent voter ballot may be compromised during the duplication process. The absent voter ballot instructions provided to an absent uniformed services voter or overseas voter must include the proper procedures for returning the absent voter ballot to the appropriate clerk.

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

(10) An absent uniformed services voter or an overseas voter who submits an absent voter ballot application is eligible to vote as an absent voter in any local, state, or federal election occurring in the calendar year in which the election is held for that ballot requested if the absent voter ballot application is received by the county, city, or township clerk not later than 2 p.m. of the Saturday before the election. A village clerk receiving an absent voter ballot application from an absent uniformed services voter or overseas voter shall transmit to the township clerk and the school district election coordinators, where applicable, the necessary information to enable the city or township clerk and school district election coordinators to forward an absent voter ballot for each applicable election in that calendar year to the absent voter. If the local elections official rejects a voter registration application or absent voter ballot application submitted by an absent uniformed services voter or overseas voter, the election official shall notify the voter of the rejection.

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

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

(13) An absent uniformed services voter or an overseas voter may use the federal write-in absentee ballot, in accordance with the provisions of the uniformed and overseas citizens absentee voting act, at a regular election or special election to vote for a local, state, or federal office or on a ballot question. Except as otherwise provided in this subsection, an absent uniformed services voter or an overseas voter who uses the federal write-in absentee ballot shall return the voter's voted federal write-in absentee ballot by mail to the appropriate clerk. Subject to subsection (17), beginning January 1, 2024, a member of a uniformed service on active duty, by reason of being on active duty, or a member of the merchant marine, by reason of service in the merchant marine, who is absent from the United States and does not expect to return to the residence where the member is otherwise qualified to vote before an election may electronically return a voted ballot to the appropriate city or township clerk to be counted under the rules promulgated by the secretary of state as set forth in subsection (17). The state bureau of elections shall do both of the following:

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

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

(14) The clerk of a city or township shall submit to the county clerk of the county in which that city or township is located a written statement no later than 45 days before each election indicating whether absent voter ballots were issued to absent uniformed services voters or overseas voters in compliance with this section and the uniformed and overseas citizens absentee voting act. The city or township clerk shall provide to the county clerk a written explanation describing remedial actions taken by the city or township clerk if the city or township clerk fails to comply with this section and the uniformed and overseas citizens absentee voting act. Not later than 42 days before each election, each county clerk shall submit to the state bureau of elections a written report compiled from the written statements submitted by the city and township clerks. The written report must identify the cities and townships that complied with the 45-day deadline under this subsection, the cities and townships that did not comply with the 45-day deadline under this subsection, but provided a written explanation, and those cities and townships that did not comply with the 45-day deadline under this subsection and that did not provide a written explanation. The state bureau of elections may require the clerk of a city or township that did not comply with the 45-day deadline under this subsection, but provided a written explanation, to provide additional information. The state bureau of elections shall require the clerk of a city or township that did not comply with the 45-day deadline and that did not provide a written explanation to file a written explanation, describing the remedial actions taken by the city or township clerk, within 1 business day after the state bureau of elections notifies the clerk of that city or township.

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

(16) The secretary of state shall order a city or township clerk to extend the ballot receipt deadline for any absent voter ballots under this section that were not transmitted to an absent uniformed services voter or overseas voter in compliance with subsection (5). The extension must equal the total number of days beyond the deadline as provided in subsection (5) that the city or township clerk transmitted the requested absent voter ballots. These absent voter ballots received during the extension time must be counted and tabulated for the final results of the election provided that the absent voter ballots are executed and sent by the close of the polls on election day. The election may be formally certified before the end of the extension time if the number of outstanding absent voter ballots under this subsection will not alter the outcome of the election.

(17) The secretary of state shall promulgate rules that establish policies and procedures for the electronic return of voted ballots by eligible members. In promulgating rules that establish the policies and procedures for the electronic return of voted ballots by eligible members, the secretary of state shall require an eligible member to use a United States Department of Defense verified electronic signature, as that term is defined in section 18a, so that the identity of the eligible member can be verified utilizing those policies and procedures. A member who is unable or unwilling to provide a United States Department of Defense verified electronic signature is not eligible to electronically return a voted ballot. The secretary of state shall take reasonable steps to ensure the integrity and secrecy of voted ballots returned electronically. The secretary of state may develop and maintain a secure web portal on the secretary of state's website to facilitate the electronic return of voted ballots by eligible members. Only the secretary of state or the secretary of state's duly authorized agent, a city or township clerk, the clerk's deputy clerk, or a sworn member of the clerk's staff is authorized to access the secure web portal on the secretary of state's website. No later than January 1, 2024, the secretary of state shall promulgate rules

pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this subsection, and the secretary of state must allow for the electronic return of voted ballots by eligible members starting no later than the 2024 statewide presidential primary election. As used in this subsection, “eligible member” means a member of a uniformed service on active duty or a member of the merchant marine, as described in subsection (6) or (13).

(18) If the absent voter ballot return envelope containing a marked absent voter ballot for an absent uniformed services voter or overseas voter is postmarked on or before election day and the absent voter ballot is received by mail by the city or township clerk within 6 days after the election, the city or township clerk shall consider that absent voter ballot timely received. If the absent voter ballot return envelope containing a marked absent voter ballot for an absent uniformed services voter or overseas voter is received by mail by the city or township clerk within 6 days after the election and the postmark on the absent voter ballot return envelope is missing or unclear, the city or township clerk shall deliver that absent voter ballot return envelope to the clerk of the county in which the city or township is located as provided in this subsection and that county clerk shall determine whether that absent voter ballot was timely received. Not later than the seventh day after election day, each city or township clerk shall, without opening the absent voter ballot return envelopes, deliver the absent voter ballots received within 6 days after the election as provided under this subsection to the clerk of the county in which the city or township is located. If the postmark on the absent voter ballot return envelope is missing or unclear, and if the county clerk determines that the absent voter ballot return envelope or the voter certificate inside the absent voter ballot return envelope is dated on or before election day by the absent uniformed services voter or overseas voter, the county clerk shall consider that absent voter ballot as timely received. The absent voter ballots considered timely received as provided under this subsection shall be tabulated by the county clerk in a meeting of the board of county canvassers. As used in this subsection, “postmark” means any type of mark applied by the United States Postal Service or any delivery service to the absent voter ballot return envelope, including, but not limited to, a bar code or any tracking marks that indicate when a ballot was mailed.

(19) As used in this section:

(a) “Absent uniformed services voter” means any of the following:

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

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

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

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

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

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

(c) “Overseas voter” means any of the following:

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

(ii) An individual who resides outside of the United States and is qualified to vote in the last place in which the individual was domiciled before leaving the United States.

(iii) An individual who resides outside of the United States and who, but for such residence outside of the United States, would be qualified to vote in the last place in which the individual was domiciled before leaving the United States.

(d) “Uniformed services” means the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, the Commissioned Corps of the Public Health Service, the Commissioned Corps of the National Oceanic and Atmospheric Administration, a reserve component of a uniformed service, or the Michigan National Guard as that term is defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

Sec. 764a. (1) Subject to subsection (2), the following instructions for an absent voter must be included with each ballot or set of ballots furnished an absent voter:

INSTRUCTIONS FOR ABSENT VOTERS

Step 1. Enclosed you will find voting instructions as to the method of voting. Read these carefully and then vote the ballot.

Step 2. After voting a ballot, place the ballot in the secrecy sleeve, if any. If a secrecy sleeve is not provided, refold the ballot to conceal your votes.

Step 3. Place the ballot or ballots in the return envelope and securely seal the envelope.

Step 4. Sign and date the return envelope in the place designated. Your signature must appear on the return envelope or the ballot will not be counted. If you are disabled or otherwise unable to mark the ballot and required assistance in voting your absent voter ballot, have the individual who assisted you complete the section on the return envelope entitled "TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER INDIVIDUAL".

Step 5. Deliver the return envelope by 1 of the following methods:

(a) Place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the envelope personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk, or to a secure drop box located in the city or township.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or an individual residing in the voter's household may mail or deliver a ballot to the clerk for the voter.

(d) You may request by telephone that the clerk who issued the ballot provide assistance in returning the ballot. The clerk is required to provide assistance if you are unable to return your absent voter ballot as specified in (a), (b), or (c) above, if it is before 5 p.m. on the Friday immediately preceding the election, and if you are asking the clerk to pick up the absent voter ballot within the jurisdictional limits of the city, township, or village in which you are registered. Your absent voter ballot will then be picked up by the clerk or an election assistant sent by the clerk. All individuals authorized to pick up absent voter ballots are required to carry credentials issued by the clerk. If using this absent voter ballot return method, do not give your ballot to anyone until you have checked their credentials.

Step 6. The ballot must reach the clerk or an authorized assistant of the clerk before the close of the polls on election day. An absent voter ballot received by the clerk or assistant of the clerk after the close of the polls on election day will not be counted.

WARNING

All of the following actions are violations of the Michigan election law and are illegal in this state:

(1) To vote an absent voter ballot at a meeting or gathering at which other individuals are voting absent voter ballots.

(2) For an individual who is assisting an absent voter in marking the ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(3) For an individual who is present and knows that an individual is voting an absent voter ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(4) For an individual other than those listed in these instructions to return, offer to return, agree to return, or solicit to return an absent voter ballot to the clerk.

(5) For an individual other than the absent voter; an individual listed in these instructions; or an individual 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 to be in possession of a voted or unvoted absent voter ballot.

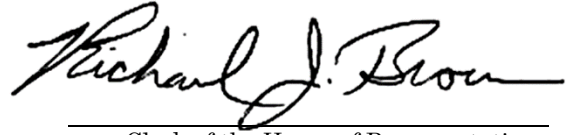
(2) The following instruction must be included with the instructions as provided in subsection (1) for each absent voter ballot furnished to an absent uniformed services voter or overseas voter:

"For an absent uniformed services voter or overseas voter, the absent voter ballot return envelope containing a marked absent voter ballot must be postmarked on or before election day and must reach the clerk or authorized assistant of the clerk within 6 days after the election. If the absent voter ballot return envelope containing an absent voter ballot for an absent uniformed services voter or overseas voter is received by mail by the clerk or authorized assistant of the clerk more than 6 days after the election or is postmarked after election day, the absent voter ballot will not be counted."

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor