

## MICHIGAN ELECTION LAW (EXCERPT)

### Act 116 of 1954

#### ABSENT VOTERS

#### **168.758 Repealed. 2018, Act 603, Imd. Eff. Dec. 28, 2018.**

**Compiler's note:** This repealed section pertained to valid reasons for obtaining an absentee ballot.

**Popular name:** Election Code

#### **168.758a Absent voter ballot for president and vice-president; qualifications.**

Sec. 758a. (1) A citizen of the United States above the age of 18 years may vote by absent voter ballot for president and vice-president of the United States if he has either of the following qualifications:

(a) He has removed from a place within the United States or its possessions to this state, was qualified to vote for president and vice-president at the time of removal in the place from which he removed but is no longer qualified to vote in that place, produces evidence of these facts, and will have resided in this state for less than 6 months and in a city or township of this state for not less than 30 days next preceding an election at which candidates for president and vice-president are voted for.

(b) If he has removed from this state to another place within the United States or its possessions, was a duly qualified and registered elector in a city or township of this state at the time of removal, and produces evidence that he cannot yet qualify to so vote in his present place of residence.

(2) A citizen qualified to vote for president and vice-president under this act, upon making proper application shall be furnished with an absent voter ballot for president and vice-president only as provided in this act. The ballot shall be a regular paper ballot for the election but shall be plainly designated, in the manner prescribed by the secretary of state, "president and vice-president only". A vote shall not be counted on such a ballot other than the vote for president and vice-president of the United States.

(3) A person who qualifies to vote for president and vice-president under paragraph (1a) of this section may make application for a presidential ballot by delivering an application in person to the clerk of the city or township of present residence not later than 2 p.m. on the Saturday immediately prior to the election. The application shall contain a certificate of the voting officer of the place of previous residence which shall be completed at the time of filing and shall also contain a statement that the applicant possesses all the qualifications of an elector in Michigan except those relating to residence and that as to residence he will have resided in the state of Michigan for a period of less than 6 months and in the city or township of present residence at least 30 days immediately prior to the election. The application shall be sworn to before the clerk and upon acceptance by the clerk shall serve as a temporary registration which shall be valid for that election only. A temporary registration as herein set forth shall be delivered to the precinct inspectors with the absent voter ballots and shall be returned to the clerk following the election. The form of the combined application-temporary registration shall be prescribed by the secretary of state.

A voter who qualifies to vote for president and vice-president under paragraph (1b) of this section may make application to the city or township clerk of his last place of residence in Michigan not later than 2 p.m. on the Saturday immediately prior to the election, on a form prescribed by the secretary of state, which form shall include a certificate from the voting officer of the place of present residence stating that the applicant cannot qualify to vote because of failure to meet residence requirements. Any such application shall be deemed to be an authorization to, immediately following the election, cancel the registration of the applicant if it is still on the registration records.

**History:** Add. 1965, Act 75, Eff. Mar. 31, 1966;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972.

**Popular name:** Election Code

#### **168.758b Voting by persons confined in jail or prison prohibited.**

Sec. 758b. A person who, in a court of this or another state or in a federal court, has been legally convicted and sentenced for a crime for which the penalty imposed is confinement in jail or prison shall not vote, offer to vote, attempt to vote, or be permitted to vote at an election while confined.

**History:** Add. 1975, Act 178, Imd. Eff. July 25, 1975.

**Popular name:** Election Code

#### **168.758c Repealed. 2003, Act 302, Eff. Jan. 1, 2005.**

**Compiler's note:** The repealed section pertained to certain electors considered absent voters for purposes of community college district special elections.

**Popular name:** Election Code

**168.759 Application for an absent voter ballot; manner; form; signature of applicant; false statement as misdemeanor; political party ballot selection; delivery of ballot; application confidentiality of program participant; maintenance of online absent voter ballot applications; digital signature; "manual digital signature" and "stored digital signature" defined.**

Sec. 759. (1) A registered elector may apply for an absent voter ballot in any of the following ways:

(a) By a written request signed by the elector.

(b) On an absent voter ballot application form as provided for in this section.

(c) On a federal postcard application.

(d) Using an online absent voter ballot application as provided by the secretary of state.

(2) A registered elector may submit an absent voter ballot application in any of the following ways:

(a) By mail or email to the clerk of the city or township in which the elector resides.

(b) By using the online absent voter ballot application as provided by the secretary of state.

(c) Until 4 p.m. on the day before election day, in person to the clerk of the city or township in which the elector resides.

(d) On election day, in person until 8 p.m. to the clerk of the city or township in which the elector resides, but only if the elector is registering to vote or updating the elector's voter registration address. An elector who submits an absent voter ballot application under this subdivision must complete the elector's absent voter ballot in the city or township clerk's office.

(3) An elector must sign the absent voter ballot application. The digital image of an elector's signature from a Michigan driver license or official Michigan personal identification card record, or an electronic image of an elector's physical signature, is an acceptable signature for the absent voter ballot application. An absent voter ballot application that is submitted and missing a signature is subject to the requirements of sections 761 and 766a.

(4) An absent voter ballot application submitted before a primary election may be for either that primary election only, or for that primary election and for each election that follows the primary election in that year. An absent voter ballot application submitted before a presidential primary election may be for that presidential primary election only, or for that presidential primary election and for each election that follows the presidential primary election in that year.

(5) A registered elector has the right to have an absent voter ballot sent to that elector before each election by submitting a single, signed absent voter ballot application that covers all future elections.

(6) An individual may submit a voter registration application and an absent voter ballot application at the same time. Immediately after the voter registration application for that individual is approved, the clerk must verify the absent voter ballot application and issue an absent voter ballot to that individual as provided under section 761. An individual who submits a voter registration application and an absent voter ballot application at the same time and in person on the day of an election must vote the absent voter ballot at the city or township clerk's office.

(7) The clerk of a city or township shall have absent voter ballot application forms available in the clerk's office at all times. The clerk of a city or township shall provide an absent voter ballot application form to an individual on a verbal or written request and provide the application to the individual in person, electronically, or by United States mail, postage prepaid with a postage prepaid return envelope, as requested by the individual. In addition, the secretary of state, or any county, city, or township clerk, may provide an absent voter ballot application to a registered elector in person, electronically, or by United States mail, with prepaid return postage, without a request from that registered elector. The absent voter ballot application must be in substantially the following form:

"Application for absent voter ballot for:

☐ The primary election to be held on \_\_\_\_\_ (Date).

☐ The election to be held on \_\_\_\_\_ (Date).

☐ All future elections. Automatically send me an absent voter ballot for each election.

(Check applicable election or elections)

I, \_\_\_\_\_, am a United States citizen and a registered elector of the township of \_\_\_\_\_ or of the city of \_\_\_\_\_, in the county of \_\_\_\_\_ and state of Michigan, and I apply for an absent voter ballot to be voted by me at the election or elections as requested in this application.

Send my absent voter ballot to me at the following address:

\_\_\_\_\_  
(Street No. or R.R. or Designated Address)

(Post Office) (State) (Zip Code)  
My registration address is .....  
(Street No. or R.R. or Participant Identification Number)  
.....  
(Post Office) (State) (Zip Code)  
Telephone number:  
Email address:

Date.....  
I certify that I am a United States citizen and that  
the statements in this absent voter ballot application  
are true.

.....  
(Signature)

### WARNING

You must be a United States citizen to vote. If you are not a United States citizen, you will not be issued an absent voter ballot.

An individual making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for an individual other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the clerk's office must have credentials signed by the clerk. Ask to see the individual's credentials before entrusting your application with an individual claiming to have the clerk's authorization to return your application.

Certificate of Authorized Registered  
Elector Returning Absent Voter  
Ballot Application

I certify that my name is ..... and my address is ..... ; that I am delivering the absent voter ballot application of ..... at the applicant's request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

\_\_\_\_\_  
(Date) (Signature)"

(8) The following instructions for an applicant for an absent voter ballot must be included with each application furnished an applicant:

#### INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you may not receive an absent voter ballot.

Step 2. Deliver the application by 1 of the following methods:

(a) Place the application in the postage prepaid return envelope provided by the clerk and addressed to the clerk, or place the application in another envelope that is addressed to the appropriate clerk and place the necessary postage on that return envelope, and deposit the return envelope in the United States mail or with another postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the application personally to the clerk's office, to the clerk, or to an authorized assistant of the clerk.

(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 elector's household may mail or deliver the application to the clerk for the applicant.

(d) If an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The individual returning the application must sign and return the certificate at the bottom of the application.

(e) If the applicant applies using the online absent voter ballot application as provided by the secretary of state, send the application electronically through the qualified voter file to the appropriate city or township clerk for processing.

(9) For a presidential primary election, the secretary of state shall revise the absent voter ballot application form described in subsection (7) to require that a presidential primary elector indicate a political party ballot

selection when requesting an absent voter ballot and provide a separate form for a presidential primary elector who has previously applied for an absent voter ballot to indicate or change a political party ballot selection.

(10) An elector may request delivery of the elector's absent voter ballot to an address that is not the elector's registration address. In addition, an elector may request delivery of the elector's absent voter ballot to a post office box if the post office box is where the absent voter normally receives personal mail, and the elector does not receive mail at the elector's registration address.

(11) An individual shall not be in possession of a signed absent voter ballot application except for the applicant, a member of the applicant's immediate family, an individual residing in the applicant's household, an individual whose job normally includes the handling of mail, but only during the course of the individual's employment, a registered elector requested by the applicant to return the application, or a clerk, assistant of the clerk, or other authorized election official. A registered elector who is requested by the applicant to return the applicant's absent voter ballot application shall sign the certificate on the absent voter ballot application.

(12) An individual who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section.

(13) An individual who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. An individual who forges a signature on an absent voter ballot application is guilty of a felony. An individual who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

(14) The absent voter ballot application of an elector who is a program participant, as that term is defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853, is confidential and not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(15) The secretary of state shall provide and maintain an online absent voter ballot application that allows a qualified and registered elector to request an absent voter ballot for an election occurring in that elector's city or township. The online absent voter ballot application must be in substantially the same form as the absent voter ballot application provided under subsection (7).

(16) The online absent voter ballot application provided and maintained by the secretary of state under subsection (15) must provide an opportunity for an elector to use the elector's stored digital signature on file with the secretary of state on the online absent voter ballot application. In order to allow an elector to use the elector's stored digital signature, the online absent voter ballot application must verify the elector's identity and registration status by requesting the elector's name, complete driver license or state personal identification card number, full date of birth, last 4 digits of the elector's Social Security number, and eye color. A registered elector whose stored digital signature is on file with the secretary of state must sign the online absent voter ballot application with that stored digital signature. A registered elector without a stored digital signature on file with the secretary of state may provide a manual digital signature by uploading a photograph of the registered elector's physical handwritten signature to the online absent voter ballot application. A completed online absent voter ballot application, including digital signature, must be sent electronically through the qualified voter file to the appropriate city or township clerk for processing. An online absent voter ballot application signed using a stored digital signature or manual digital signature must be processed and treated identically as an absent voter ballot application signed with a physical handwritten signature. As used in this subsection:

(a) "Manual digital signature" means a digitally captured image of an elector's handwritten signature.

(b) "Stored digital signature" means the image of a registered elector's signature captured by the department of state and maintained in the department of state's motor vehicle database.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1959, Act 171, Eff. Mar. 19, 1960;—Am. 1962, Act 90, Imd. Eff. Apr. 30, 1962;—Am. 1963, Act 237, Eff. Sept. 6, 1963;—Am. 1965, Act 354, Eff. Mar. 31, 1966;—Am. 1974, Act 189, Imd. Eff. July 2, 1974;—Am. 1975, Act 178, Imd. Eff. July 25, 1975;—Am. 1980, Act 344, Imd. Eff. Dec. 23, 1980;—Am. 1982, Act 201, Eff. Jan. 1, 1983;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2012, Act 523, Eff. Mar. 28, 2013;—Am. 2018, Act 603, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2020, Act 302, Eff. June 27, 2021;—Am. 2023, Act 82, Eff. Feb. 13, 2024;—Am. 2023, Act 270, Eff. Feb. 13, 2024.

**Popular name:** Election Code

**168.759a Absent uniformed services voter or overseas voter; electronic transmission of voter registration or ballot application; requirements; spouse or dependent; electronic transmission of ballot to voter; establishment and implementation of procedures by secretary of state; confidentiality of electronic mailing address; approval of ballot form and registration procedures by state director of elections; use of federal write-in absentee**

**ballot; report; selection of political party ballot for presidential primary election; extension of ballot receipt deadline; promulgation of rules for electronic return of voted ballots by eligible members; timeliness of certain absent voter ballots; definitions.**

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 September 1, 2025, 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 September 1, 2025, 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 September 1, 2025, 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. 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.

**History:** Add. 1956, Act 21, Imd. Eff. Mar. 22, 1956;—Am. 1971, Act 68, Eff. Oct. 1, 1971;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 605, Imd. Eff. Jan. 3, 2007;—Am. 2010, Act 50, Eff. June 1, 2010;—Am. 2011, Act 163, Imd. Eff. Oct. 4, 2011;—Am. 2012, Act 279, Eff. Aug. 15, 2012;—Am. 2012, Act 523, Eff. Mar. 28, 2013;—Am. 2022, Act 197, Imd. Eff. Oct. 7, 2022;—Am. 2023, Act 25, Imd. Eff. May 1, 2023;—Am. 2023, Act 193, Eff. Feb. 13, 2024.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

#### **168.759b Emergency absent voters' ballot; application.**

Sec. 759b. Any registered elector may apply for absent voter ballots at any time prior to 4 p.m. on election day if he shall have become physically disabled or shall be absent from the city or township because of sickness or death in the family which has occurred at a time which has made it impossible to apply for absent voter ballots by the statutory deadline. The application shall be called an emergency absent voter application.

Emergency absent voter applications may be made by letter or on a form provided by the clerk. The application shall set forth that the voter is qualified to vote in the election, stating the statutory reason for applying for an emergency absent voter ballot and that the reason for applying after the statutory deadline occurred at such a time to make it impossible to file an application for absent voter ballots by the statutory deadline.

Any person intentionally making a false statement in such application is guilty of a felony. Any person aiding or abetting any person to make a false statement on such application is guilty of a felony.

Upon receipt by the clerk of a valid application for an emergency absent voter ballot, the clerk may deliver the ballots to the applicant in person, through a deputy or an election assistant, or he may deliver them at his office to a person named by the applicant in the application. The voter may return the ballots to the clerk in the sealed envelope provided therefor in any manner he sees fit. To be valid, ballots must be returned to the clerk in time to be delivered to the polls prior to 8 p.m. on election day.

**History:** Add. 1965, Act 205, Imd. Eff. July 16, 1965.

**Popular name:** Election Code

#### **168.759c Repealed. 2023, Act 82, Eff. Feb. 13, 2024.**

**Compiler's note:** The repealed section pertained to a separate form for a presidential primary elector to indicate or change their political party ballot selection when requesting an absentee ballot.

**Popular name:** Election Code

#### **168.759e Permanent mail ballot voters; rescission; notification.**

Sec. 759e. (1) Each city and township clerk shall determine who that clerk's permanent mail ballot voters are and shall maintain and track those permanent mail ballot voters through the qualified voter file. Any registered elector may become a permanent mail ballot voter. A permanent mail ballot voter must be issued an absent voter ballot for every election. Each city and township clerk shall also issue an absent voter ballot application to any elector who requests an absent voter ballot application.

(2) Once an elector's absent voter ballot application for all future elections has been verified, the elector becomes a permanent mail ballot voter and the elector must be sent an absent voter ballot before each election unless the application is rescinded.

(3) An absent voter ballot application for all future elections can be rescinded only for any of the following



reasons:

(a) The permanent mail ballot voter submits a signed request to rescind the voter's application to receive an absent voter ballot by mail for all future elections.

(b) The permanent mail ballot voter is no longer qualified to vote in this state.

(c) The secretary of state or the appropriate city or township clerk receives reliable information that the permanent mail ballot voter has moved the voter's residence to another state, or has moved the voter's residence within this state without updating the voter's registration address.

(d) The permanent mail ballot voter does not vote for 6 consecutive years.

(4) The secretary of state or the appropriate city or township clerk shall rescind the absent voter ballot application for all future elections for a permanent mail ballot voter if the secretary of state or the appropriate city or township clerk receives reliable information that the permanent mail ballot voter meets 1 or more of the reasons described in subsection (3).

(5) If an absent voter ballot application for all future elections is rescinded under subsection (3)(d), the city or township clerk shall send the elector a notice informing the elector that the elector's absent voter ballot application for all future elections has been rescinded because the elector did not vote for 6 consecutive years.

(6) A permanent mail ballot voter who changes the voter's residence in this state and updates the voter's registration address, or who has the voter's registration address updated, continues to be a permanent mail ballot voter and the voter's absent voter ballot must be sent to the voter's current registration address until another address is designated by the permanent mail ballot voter.

**History:** Add. 2023, Act 86, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.759f Presidential primary ballot selection form; availability.**

Sec. 759f. (1) The secretary of state shall prescribe the presidential primary ballot selection form. The presidential primary ballot selection form must be available in person, by mail, and online, and must be able to be submitted to the clerk of the city or township in which the permanent mail ballot voter resides, in person, by mail, or online.

(2) No later than 60 days before a presidential primary election, each city or township clerk shall send a presidential primary ballot selection form, with prepaid return postage, to all permanent mail ballot voters in the city or township who have not made a presidential primary ballot selection for the presidential primary election. If a permanent mail ballot voter does not return a presidential primary ballot selection form by the fortieth day before a presidential primary election, the city or township clerk shall notify that permanent mail ballot voter by telephone, email, and text message, if available, of the requirement to make a political party ballot selection in order to receive a presidential primary election ballot. If the city or township clerk does not have the telephone number or email address of the permanent mail ballot voter, the city or township clerk must notify the permanent mail ballot voter by United States mail, and may also notify the permanent mail ballot voter by any other available method of contact.

(3) If an elector becomes a permanent mail ballot voter in a city or township after the clerk sends the presidential primary ballot selection forms as required under subsection (2), and the elector has not made a presidential primary ballot selection for the presidential primary election, the clerk of the city or township must immediately send the voter a presidential primary ballot selection form, with prepaid return postage.

(4) If the presidential primary election ballot contains any office or proposal other than for the office of President of the United States, a ballot with those other offices or proposals that does not include the office of President of the United States must be sent to those permanent mail ballot voters who have not made a presidential primary ballot selection for the presidential primary election. In addition, a ballot sent under this subsection must include a notice on a form as prescribed by the secretary of state that indicates both of the following:

(a) The permanent mail ballot voter did not receive a presidential primary election ballot because the permanent mail ballot voter did not make a presidential primary ballot selection.

(b) The process by which the permanent mail ballot voter can participate in the presidential primary election.

(5) A presidential primary ballot selection form sent under this section must be sent to the address designated by the permanent mail ballot voter to which the voter's absent voter ballot is sent.

**History:** Add. 2023, Act 86, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.759g Discontinuation of permanent absent voter ballot application lists.**

Sec. 759g. The secretary of state shall provide instructions to county, city, and township clerks regarding

the discontinuation of any permanent absent voter ballot application list maintained by a county, city, or township clerk for electors who automatically receive an absent voter ballot application before each election.

**History:** Add. 2023, Act 86, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.760 Absent voters; records, public inspection.**

Sec. 760. Upon receipt of such properly executed application, as above provided, the city, township or village clerk shall file the same in his office and shall enter the name of the applicant and the address to which the ballot or ballots are to be sent upon a list or record to be kept for such purpose, together with the date of receiving the application, the date of mailing or delivering the ballot or ballots to such voter, the date of receiving the ballot from such voter, and such other information as may seem necessary or advisable. Applications and lists shall be open to public inspection at all reasonable hours.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.761 Absent voter ballots; mailing or delivering to applicant; rejection of application; notice; return envelope; form; statement; false statement as misdemeanor or felony; presenting of identification for election purposes; affidavit.**

Sec. 761. (1) If the clerk of a city or township receives an application for an absent voter ballot, the clerk must immediately determine if the applicant is registered to vote in that city or township and if the signature on the application agrees sufficiently with the signature on file for the individual as required in subsection (2). The clerk must immediately, upon verification of the application or, if the application is received and verified before the printing of the absent voter ballots, as soon as the absent voter ballots are received by the clerk, forward by mail, postage prepaid, or deliver the absent voter ballot to the applicant. The clerk must include with the absent voter ballot a postage prepaid absent voter ballot return envelope. A clerk shall not send an absent voter ballot to an applicant by first-class mail after 5 p.m. on the fourth day before an election. If the clerk of a city or township receives an application for an absent voter ballot from an applicant who is a program participant, as that term is defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853, then the city or township clerk shall mail an absent voter ballot to that program participant at the designated address provided to that program participant by the department of the attorney general under the address confidentiality program act, 2020 PA 301, MCL 780.851 to 780.873. If the clerk of a city or township receives an absent voter ballot application after the deadline for a clerk to mail an absent voter ballot by first-class mail to the applicant under this subsection, and the clerk does not otherwise promptly provide the applicant with the absent voter ballot, the clerk must immediately notify the applicant that the applicant's absent voter ballot application was rejected as not timely received and notify the applicant of the alternative methods of voting available for that election. The clerk must notify the applicant by telephone, email, or text message, if available. In the absence of the applicant's telephone number or email address, the clerk must notify the applicant by United States mail. The clerk may also provide notice to the applicant by any other available methods of contact. Electronic notification of the rejection of the application under section 764c that provides the information required by this subsection constitutes sufficient notification to the applicant. However, an absent voter ballot application that is rejected must still be processed for any future elections indicated on that absent voter ballot application. If a county clerk receives an application for an absent voter ballot from an individual, the county clerk shall immediately forward that absent voter ballot application to the appropriate city or township clerk where that individual resides. If a city or township clerk receives an application for an absent voter ballot from an individual who is registered to vote in a different city or township, that clerk must immediately contact the individual to determine where the individual resides and should be registered to vote. If the city or township clerk determines that the individual is registered to vote in a different city or township, the city or township clerk must electronically forward the application to the clerk of the city or township in which the individual is registered.

(2) The signature on file must be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons must be made using the procedures required under section 766a. If the clerk of a city or township rejects an absent voter ballot application because the signature on the absent voter ballot application does not agree sufficiently with the signature on file or because the elector failed to sign the absent voter ballot application, the applicant must be provided notice and the opportunity to cure the deficiency as provided under section 766a. The notice must inform the applicant that the applicant must cure the deficiency by 4 p.m. on the fourth day before the election in order to receive an absent voter ballot by first-class mail. If the applicant cures the deficiency as provided under section 766a by 4 p.m. on the fourth day before the election, the clerk must immediately send an absent voter ballot and a postage prepaid absent

voter ballot return envelope to the applicant as provided under subsection (1).

(3) Except as otherwise provided in this subsection, and except for ballots delivered pursuant to an emergency absent voter ballot application under section 759b, absent voter ballots must be mailed or delivered to the applicant at the applicant's registration address unless the applicant requests that the absent voter ballot be sent to a different address as provided on the applicant's absent voter ballot application. In addition, a clerk may mail or deliver an absent voter ballot, on request of the applicant, to a post office box if the post office box is where the applicant normally receives personal mail and the applicant does not receive mail at the applicant's registration address. Subject to subsections (6) and (7), an absent voter ballot may be delivered to an applicant in person at the clerk's office.

(4) The clerk shall enclose with the ballot a postage prepaid return envelope properly addressed to the clerk and bearing on the back of the return envelope a printed statement in substantially the following form:

TO BE COMPLETED  
BY THE CLERK

Name of Voter	Street Address or R.R. or Program Participant Identification Number
City or Township	County
Ward _____ Precinct _____	Date of Election _____

=====

TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a United States citizen and a registered elector of the city or township 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 individual.

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 an individual residing in my household.

DATE: \_\_\_\_\_ SIGN HERE X \_\_\_\_\_  
Signature of Absent Voter

The above form must be signed or your vote may 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 INDIVIDUAL

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in marking the absent voter's absent voter ballot pursuant to the absent voter's directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other individual.

Signature of Individual Assisting Voter	Street Address or R.R.	City or Township
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\_\_\_\_\_  
Printed Name of Individual Assisting Voter

AN INDIVIDUAL WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A FALSE  
STATEMENT IS GUILTY OF A FELONY.

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WARNING

INDIVIDUALS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; AN INDIVIDUAL 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; 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 THE INDIVIDUAL'S EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER

**AUTHORIZED ELECTION OFFICIALS OF THE CITY OR TOWNSHIP. ANY OTHER INDIVIDUAL 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. An individual 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 applies for an absent voter ballot in person at a clerk's office before 4 p.m. on the day before election day, the city or township clerk shall not issue an absent voter ballot to that elector until the elector presents identification for election purposes. If an elector does not have identification for election purposes, the clerk shall inform the elector that the elector must sign an affidavit to that effect in front of the clerk before an absent voter ballot will be issued in person to that elector. If an elector signs an affidavit under this subsection, the clerk shall issue an absent voter ballot to that elector. Except as otherwise provided in this subsection and subsection (7), a clerk shall not issue an absent voter ballot in person to any elector after 4 p.m. on the day before election day. An elector who is in line at 4 p.m. on the day before election day must be issued an absent voter ballot. This subsection also applies to an individual who submits an absent voter ballot application by means other than in person at a clerk's office, but who receives that individual's absent voter ballot in the clerk's office.

(7) An individual who registers to vote or who updates the individual's voter registration on election day in accordance with section 497 may apply for and complete an absent voter ballot in person at a clerk's office on election day. The individual shall receive the absent voter ballot, mark the absent voter ballot in a clerk's office, and return the absent voter ballot to the clerk in the absent voter ballot return envelope. An individual who is in line to register to vote or to update the individual's voter registration at 8 p.m. on election day must be permitted to register to vote or update the individual's voter registration, apply for an absent voter ballot, and vote the absent voter ballot after 8 p.m., including after 11:59 p.m. on election day if necessary. An individual who registers to vote on election day and who is in line to apply for an absent voter ballot at 8 p.m. on election day must be permitted to apply for an absent voter ballot and vote the absent voter ballot after 8 p.m., including after 11:59 p.m. on election day if necessary.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1965, Act 152, Imd. Eff. July 12, 1965;—Am. 1966, Act 264, Imd. Eff. July 12, 1966;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2012, Act 523, Eff. Mar. 28, 2013;—Am. 2018, Act 129, Imd. Eff. May 3, 2018;—Am. 2018, Act 603, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2020, Act 302, Eff. June 27, 2021;—Am. 2023, Act 82, Eff. Feb. 13, 2024.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

**168.761a Repealed. 2018, Act 120, Eff. Dec. 31, 2018.**

**Compiler's note:** The repealed section pertained to forwarding absent voter ballots to voters when delegates are to be elected.

**Popular name:** Election Code

**168.761b Clerk of city or township; office hours immediately before election for receiving absent voter ballots; public notice; additional locations by resolution.**

Sec. 761b. (1) Beginning January 1, 2019, the clerk of each city or township shall be available in his or her office to issue and receive absent voter ballots for any combination of at least 8 hours on the Saturday or Sunday immediately before election day.

(2) At least 30 days before the date of an election, the clerk of each city or township shall post and notify the secretary of state of the hours that the clerk's office will be open on the Saturday or Sunday, or both, immediately before the election to issue and receive absent voter ballots.

(3) Subject to the requirements for polling places in section 662, upon the approval by resolution of the governing body of a city or township, the clerk of that city or township may specify additional locations and hours that the clerk will be available to issue and receive absent voter ballots. These additional locations must allow challengers as described in section 730.

(4) At least 30 days before the date of an election, the clerk of each city or township shall post and notify the secretary of state, if applicable, concerning the additional locations and hours that the clerk will be available to issue and receive absent voter ballots as provided under subsection (3).

**History:** Add. 2018, Act 603, Imd. Eff. Dec. 28, 2018.

**168.761d Absent voter ballot drop box; requirements; procurement and distribution of drop boxes; video monitoring; inspections; transportation of absent voter ballot return envelopes.**

Sec. 761d. (1) Each city or township must have at least 1 absent voter ballot drop box that registered electors in the city or township may use to return completed absent voter ballot applications and voted absent voter ballots. If a city or township has more than 15,000 registered electors, that city or township must have at least 1 absent voter ballot drop box for every 15,000 registered electors in the city or township. In determining the number of registered electors in a city or township under this subsection, the city or township must use the number of registered electors that are in the city or township 150 days before the date of the election at which the absent voter ballot drop boxes are to be used.

(2) The secretary of state shall facilitate the procurement and distribution of absent voter ballot drop boxes that can be used by a city or township to meet the requirements under subsection (1). If the clerk of a city or township applies to the secretary of state for 1 or more absent voter ballot drop boxes to meet the requirements under subsection (1), the secretary of state shall facilitate the procurement and distribution of the absent voter ballot drop boxes at no cost to the clerk of that city or township. The secretary of state bears the cost of delivery, installation, repair, and video monitoring for each absent voter ballot drop box provided under this subsection to ensure that each absent voter ballot drop box meets the requirements of this section. The secretary of state shall issue instructions regarding the application process for city or township clerks to apply for absent voter ballot drop boxes under this subsection and for the payment or reimbursement of the associated costs specified in this subsection. As used in this subsection, "video monitoring" does not include video data storage.

(3) This section does not preclude a city or township from having more than the minimum number of absent voter ballot drop boxes required under subsection (1). Any additional absent voter ballot drop boxes used by a city or township that are beyond the number of absent voter ballot drop boxes required under subsection (1) must conform to the requirements as provided in this section.

(4) The clerk of each city or township shall ensure that absent voter ballot drop boxes are distributed equitably throughout the city or township. In determining the location for an absent voter ballot drop box in the city or township, the clerk of the city or township must, at a minimum, consider all of the following:

- (a) Population density and distribution.
- (b) Proximity to public transportation and parking.
- (c) Accessibility, including for electors with disabilities.
- (d) Any other factors the clerk considers relevant.

(5) Each city or township clerk shall ensure that the secretary of state has the information necessary to include on the department of state's website the location of each absent voter ballot drop box in that city or township to enable an elector to determine the location of each absent voter ballot drop box in that elector's city or township.

(6) An absent voter ballot drop box must meet all of the following requirements:

(a) Be clearly labeled as an absent voter ballot drop box that can be used to return completed absent voter ballot applications and voted absent voter ballots.

(b) Be securely locked, be affixed to the ground or to another stationary object, and be designed to prevent the removal of absent voter ballot applications and absent voter ballots when locked.

(c) Be accessible 24 hours each day during the 40 days before election day, and be accessible until 8 p.m. on election day.

(d) Be equipped with a slot or mailbox-style lever to allow absent voter ballot applications and absent voter ballot return envelopes to be placed in the absent voter ballot drop box, and all other openings on the absent voter ballot drop box must be securely locked.

(e) Be located in a publicly accessible, well-lit area with good visibility.

(7) Except as otherwise provided in this subsection, for an absent voter ballot drop box that was not ordered or installed in a city or township before October 1, 2020, the city or township clerk must use video monitoring of that absent voter ballot drop box during the 75 days before each election and on election day to ensure effective monitoring of that absent voter ballot drop box. Beginning January 1, 2026, regardless of when an absent voter drop box was ordered or installed, the city or township clerk must use video monitoring of each absent voter drop box during the 75 days before each election and on election day to ensure effective monitoring of each absent voter ballot drop box in the city or township.

(8) The city or township clerk must immediately report to local law enforcement any vandalism involving the absent voter ballot drop box or any suspicious activity occurring in the immediate vicinity of the absent



voter ballot drop box.

(9) Only a city or township clerk, the clerk's deputy clerk, or a sworn member of the clerk's staff is authorized to collect absent voter ballot applications and absent voter ballots from an absent voter ballot drop box.

(10) Seventy-five days before each election and until election day, an individual who is authorized under subsection (9) must regularly inspect each absent voter ballot drop box used in that city or township to confirm that the absent voter ballot drop box complies with all of the requirements under this section.

(11) Beginning 35 days before each election and until election day, an individual who is authorized under subsection (9) must collect, on any day in which the city or township clerk's office is open for business, the election materials deposited in an absent voter ballot drop box located in the city or township.

(12) When an individual who is authorized under subsection (9) collects absent voter ballot applications and absent voter ballot return envelopes from an absent voter ballot drop box, that individual must, unless traveling from 1 absent voter ballot drop box to another absent voter ballot drop box, immediately return those collected absent voter ballot applications and absent voter ballot return envelopes to the city or township clerk's office.

(13) All absent voter ballot return envelopes collected from an absent voter ballot drop box must be transported in a ballot container approved under section 24j.

(14) Except for an absent voter ballot drop box that is located on the grounds of a city or township clerk's office, or in an official satellite office of the city or township clerk that is staffed by employees of the city or township clerk, the city or township clerk must document each time absent voter ballot applications and absent voter ballot return envelopes are collected from an absent voter ballot drop box in that city or township. The documentation required under this subsection must be preserved and maintained by the city or township clerk for not less than 22 months following the election for which the absent voter ballot applications and absent voter ballot return envelopes were collected and must include all of the following:

(a) The date the absent voter ballot applications and absent voter ballot return envelopes were collected from the absent voter ballot drop box.

(b) The name of the individual who collected the absent voter ballot applications and absent voter ballot return envelopes from the absent voter ballot drop box.

(c) The location in the city or township of the absent voter ballot drop box.

**History:** Add. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2022, Act 195, Imd. Eff. Oct. 7, 2022;—Am. 2023, Act 85, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.762 Absent voter ballots; failure to receive application.**

Sec. 762. If from any precinct the township or city clerk does not receive any application for absent voter ballots, the clerk shall deliver the packages of absent voter ballots intact to the chairperson or some member of the board of election inspectors of the precinct before the opening of the polls on election day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956;—Am. 2018, Act 120, Eff. Dec. 31, 2018.

**Popular name:** Election Code

#### **168.763 Repealed. 1956, Act 37, Imd. Eff. Mar. 28, 1956.**

**Compiler's note:** The repealed section imposed duty upon clerk to initial 3 additional absentee ballots before delivery to board of inspectors.

**Popular name:** Election Code

#### **168.764 Absent voter ballot; instructions.**

Sec. 764. In addition to the instructions provided to an absent voter under section 764a, the following ballot marking instructions for an absent voter concerning the method of voting shall be included with each absent voter ballot furnished an absent voter:

(a) For a primary election, the ballot marking instructions as provided in section 736b.

(b) For a general election, the ballot marking instructions as provided in section 736c.

(c) For a nonpartisan election, the ballot marking instructions as provided in section 736d.

(d) For a special election, the ballot marking instructions as provided in section 736e.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012.

**Compiler's note:** Former 168.764, which pertained to instructions for absent voter ballots, was repealed by Act 261 of 1995, Eff. Mar. 28, 1996.

**Popular name:** Election Code

## **168.764a Instructions for absent voters and absent uniformed services voters or overseas voters.**

Sec. 764a. (1) Subject to subsections (2) and (3), 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. If, after voting your absent voter ballot, you wish to take your marked absent voter ballot to your polling place on election day, or to an early voting site during the early voting period, to personally put your marked absent voter ballot into a tabulator to be counted, skip Steps 4 to 7 and proceed to Step 8. If you do not proceed to Step 8, and you wish to return your marked absent voter ballot to the clerk, proceed to Steps 4 to 7.

Step 4. Place the ballot or ballots in the return envelope and securely seal the return envelope.

Step 5. 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 6. Deliver the return envelope by 1 of the following methods:

(a) Deposit the postage prepaid return envelope in the United States mail, or place the necessary postage on the return envelope and deposit the return envelope with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the return 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 your immediate family 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 your household may mail or deliver a ballot to the clerk for you.

(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 that individual's credentials.

Step 7. 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.

Step 8. This step applies only if, after marking your absent voter ballot, you wish to take your marked absent voter ballot to your polling place on election day, or to an early voting site during the early voting period, to personally put your marked ballot into a tabulator to be counted. Bring your marked absent voter ballot that you placed in the secrecy sleeve under Step 2 to your polling place on election day, or to an early voting site during the early voting period, and indicate to the election inspectors that you are there to put your marked absent voter ballot into the tabulator to be counted. Before tabulating your ballot, you will be required to provide identification for election purposes to the election inspectors, or sign an affidavit that you do not have identification for election purposes, and complete the ballot application.

### **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 that absent voter 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 that absent voter 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 the individual's 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."

(3) If a city or township with 250 or more precincts that are subject to the exemption in section 765a(1) is unable to program an election day tabulator to accept an absent voter ballot in any election in an election year, the appropriate city or township clerk shall provide a modified version of the instructions for absent voters under subsection (1) that removes the ability of an elector to return the elector's marked absent voter ballot to the elector's election day polling place to be tabulated.

**History:** Add. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2012, Act 128, Imd. Eff. May 14, 2012;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2023, Act 25, Imd. Eff. May 1, 2023;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

### **168.764b Delivery, tabulation, and acceptance of absent voter ballots; appointment, oath, credentials, and duties of assistants; collection of absent voter ballots; prohibition; noncompliance.**

Sec. 764b. (1) An absent voter ballot must be delivered to the clerk, or tabulated at an election day polling place or early voting site as provided under section 768a, only as authorized in the instructions for an absent voter provided in section 764a.

(2) The clerk of a city or township may accept delivery of absent voter ballots at any location in the city or township.

(3) The clerk of a city or township may appoint the number of assistants necessary to accept delivery of absent voter ballots at any location in the city or township. An appointment as assistant to accept delivery of absent voter ballots must be for 1 election only. An assistant appointed to receive ballots at a location other than the office of the clerk must be furnished credentials of authority by the clerk. If an absent voter's ballot is received by an assistant at any location other than the clerk's office the assistant, upon request, shall exhibit the credentials to the absent voter before the assistant accepts an absent voter ballot. An assistant, before entering upon the discharge of duties, shall take and subscribe to the oath of office as provided in section 1 of article XI of the state constitution of 1963. An assistant shall perform only the duties assigned by the clerk. An individual must not be appointed as an assistant to accept delivery of absent voter ballots who is a candidate or a member of the immediate family of a candidate whose name appears on the ballot at that election.

(4) A clerk who receives a request from an absent voter under section 764a for assistance in returning the absent voter's absent voter ballot shall make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant, if all of the following conditions are satisfied:

(a) The clerk's office issued the absent voter ballot to that absent voter.

(b) Upon the clerk's request, the absent voter states that the absent voter is unable to return the absent voter ballot by the other means specified in instructions (a), (b), or (c) of Step 6 under section 764a.

(c) The absent voter telephones the appropriate clerk for assistance on or before 5 p.m. on the Friday immediately before the election.

(d) The absent voter requests the clerk to pick up the absent voter ballot within the jurisdictional limits of the city or township in which the absent voter is registered.

(5) Notwithstanding subsection (4), a clerk who receives a request from an absent voter under section 764a for assistance in returning the absent voter's absent voter ballot may make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant, if all of the following conditions are satisfied:

(a) The clerk's office issued the absent voter ballot to that absent voter.

(b) Upon the clerk's request, the absent voter states that the absent voter is unable to return the absent voter

ballot by the other means specified in instructions (a), (b), or (c) of Step 6 under section 764a.

(6) The clerk shall maintain a list open to the public that contains the names and addresses of all authorized assistants appointed under this section who are available to collect absent voter ballots on or before election day in that city or township.

(7) An absent voter ballot received by the clerk before the close of the polls on election day must not be invalidated solely because the delivery to the clerk was not in compliance with section 764a or this section, however the ballot must be considered challenged and must be marked and processed as provided in section 745.

**History:** Add. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2018, Act 120, Eff. Dec. 31, 2018;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

### **168.764c Electronic tracking system; tracking absent voter ballot applications and ballots; notifications; confidentiality.**

Sec. 764c. (1) The secretary of state shall establish, acquire, or approve an electronic tracking system that allows each elector who applies to vote by absent voter ballot at an election to track, on a website or mobile application, that elector's absent voter ballot application and absent voter ballot.

(2) For each elector who votes by absent voter ballot at an election, the electronic tracking system described in subsection (1) must indicate all of the following:

(a) The date the elector's city or township clerk received the elector's absent voter ballot application.

(b) If the elector's absent voter ballot application was accepted, the date of the acceptance, and if the elector's absent voter ballot application was rejected, all of the following:

(i) A brief statement of the reason for the rejection.

(ii) Instructions for curing the issue with the elector's absent voter ballot application, along with the deadline for curing the issue with the elector's absent voter ballot application.

(iii) If the issue with the elector's absent voter ballot application is cured by the elector and the absent voter ballot application is accepted by the elector's city or township clerk, an update that the elector's absent voter ballot application was accepted and the date of the acceptance.

(c) The date the elector's city or township clerk mailed or delivered the absent voter ballot to the elector, or for an absent uniformed services voter or overseas voter under section 759a, the date the absent uniformed services voter's or overseas voter's city or township clerk mailed or electronically transmitted the absent voter ballot to the absent uniformed services voter or overseas voter.

(d) If the elector's absent voter ballot was returned to the city or township as undeliverable.

(e) The date the elector's city or township clerk received the elector's absent voter ballot return envelope, or for an eligible member, as that term is defined under section 759a(17), who returns the absent voter ballot electronically, the date the eligible member's absent voter ballot is electronically received.

(f) If the elector's absent voter ballot return envelope was accepted, the date of the acceptance, and if the elector's absent voter ballot return envelope was rejected, all of the following:

(i) A brief statement of the reason for the rejection.

(ii) Instructions for curing the issue with the elector's absent voter ballot return envelope, along with the deadline for curing the issue with the elector's absent voter ballot return envelope.

(iii) If the issue with the elector's absent voter ballot return envelope is cured by the elector and the absent voter ballot return envelope is accepted by the elector's city or township clerk, an update that the elector's absent voter ballot return envelope was accepted and the date of the acceptance, and a statement that the elector's absent voter ballot is eligible to be tabulated.

(3) An elector must be permitted to opt in to receive notifications from the electronic tracking system by email, text message, or both email and text message. If an elector opts in under this subsection, each time any of the events described in subsection (2) occurs regarding that elector's absent voter ballot application, absent voter ballot return envelope, or absent voter ballot, the electronic tracking system must immediately notify that elector of the event by email, text message, or both email and text message, as requested by that elector.

(4) An email address or telephone number provided by an elector in order to receive notifications from the electronic tracking system must be used only by authorized individuals who have access to the qualified voter file or by individuals authorized by the secretary of state to maintain the electronic tracking system, and is confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 2012, Act 270, Eff. Aug. 15, 2012;—Am. 2018, Act 120, Eff. Dec. 31, 2018;—Am. 2023, Act 84, Eff. Feb. 13, 2024.

**Popular name:** Election Code

**168.764d Combined absent voter counting board; establishment and agreement; requirements; duties of the bureau of elections.**

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

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

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

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

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

(a) An agreement is entered into under subsection (1)(a) or (b) and at least 1 of the clerks participating in the agreement has previously operated an absent voter counting board.

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

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

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

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

(b) Develop procedures to implement this section.

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

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

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

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

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

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

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

(b) The agreement entered into under subsection (1)(a) must designate the place for the combined absent



voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the combined absent voter ballot counting place in which the combined absent voter counting board performs its duties.

(c) The agreement entered into under subsection (1)(a) must establish the time at which the election inspectors of the combined absent voter counting board report for duty.

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

(a) The board of election commissioners of the city or township entering into an agreement under subsection (1)(c) shall appoint at least 1 election inspector to the absent voter counting board and the county board of election commissioners of that county shall appoint at least 1 election inspector to the absent voter counting board not less than 21 days before the election at which those election inspectors are to be used. Sections 673a and 674 apply to the appointment of election inspectors to the absent voter counting board.

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

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

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

(10) Subject to this subsection, if the clerk of a city or township enters into an agreement under subsection (1), any absent voter ballot received by that city or township clerk after 4 p.m. on the day before an election and approved for tabulation as provided under section 766 must be delivered to the voting precinct of the elector on election day to be processed and counted. As an alternative, if the clerk of a city or township enters into an agreement under subsection (1), that city or township may authorize an absent voter counting board under section 765a(1) that is limited to only processing and tabulating absent voter ballots approved for tabulation and received after 4 p.m. on the day before an election and before 8 p.m. on election day. No later than 60 days before an election, the clerk of that city or township shall inform the county clerk of the county in which that city or township is located that the absent voter counting board has been authorized by the board of election commissioners of that city or township.

(11) The provisions of section 765a(6) to (10) and (17) apply to an absent voter counting board established under subsection (1).

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

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

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

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

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

**History:** Add. 2020, Act 95, Imd. Eff. June 23, 2020;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

### **168.765 Absent voter ballot return envelopes; safekeeping by clerk; delivery of envelopes; review and verification of signatures for tabulation; absent voter counting board; voter ballot received after polls closed.**

Sec. 765. (1) The clerk of a city or township who receives an absent voter ballot return envelope containing the marked ballot of an absent voter shall not open that sealed absent voter ballot return envelope and shall safely keep the sealed absent voter ballot return envelopes in the clerk's office until delivering the absent voter ballot return envelopes to a precinct board of election inspectors, an absent voter counting board, or a team of election inspectors as provided under subsection (3).

(2) The city or township clerk shall review each absent voter ballot return envelope to determine whether the absent voter ballot is approved for tabulation in accordance with section 766. The review under this

subsection includes verifying the signature on each absent voter ballot return envelope in accordance with section 766a. Subject to section 768, a precinct board of election inspectors or an absent voter counting board must not make any further signature verification for an absent voter ballot return envelope. Written or stamped on each absent voter ballot return envelope must be the date, and the time and date if received on election day, that the absent voter ballot return envelope was received by the city or township clerk and a statement by the city or township clerk that the absent voter ballot is approved for tabulation. If the city or township clerk determines that the elector's signature on the absent voter ballot return envelope is missing or does not agree sufficiently with the signature on file, the clerk shall reject the absent voter ballot and provide the elector with notice and the opportunity to cure the deficiency in accordance with section 766(4).

(3) The clerk of a city or township that is not processing and tabulating absent voter ballots before election day under section 765a(11) shall appoint 1 or more teams of 2 election inspectors, with 1 election inspector appointed from each major political party, to assist the clerk in determining whether the ballots for absent uniformed services voters and overseas voters are approved for tabulation. Beginning no earlier than 7 days before an election, a team of election inspectors appointed under this subsection shall assist the city or township clerk with the absent voter ballots that were electronically transmitted to absent uniformed services voters and overseas voters under section 759a and are returned in envelopes that do not have the elector's signature affixed to the exterior of the return envelope. The election inspectors shall open the return envelope and extract the certificate that absent uniformed services voters and overseas voters are instructed to sign and return in the same envelope as the ballot, while leaving the ballot in the return envelope. The clerk shall copy the certificate bearing the elector's signature, and the election inspectors shall reinsert the certificate into the return envelope and reseal the return envelope. The clerk shall proceed to determine whether the absent voter ballot is approved for tabulation as required under subsection (2).

(4) Except as otherwise provided under section 764d, the clerk of a city or township shall deliver absent voter ballot return envelopes to a board of election inspectors of an election day precinct only if the city or township has not established an absent voter counting board. The city or township clerk shall deliver to that board of election inspectors only those absent voter ballots that have been approved for tabulation under section 766, along with the clerk's list or record that is kept relative to those absent voters. The city or township clerk shall retain the applications in the clerk's office and shall keep the applications and lists open for public inspection during regular business hours. Absent voter ballots that will be tabulated by a board of election inspectors of an election day precinct must not be tabulated before the opening of the polls on election day.

(5) Subject to sections 764d and 765a(11), if a city or township has established an absent voter counting board, the clerk must deliver absent voter ballots approved for tabulation as provided under section 766 to the absent voter counting board by the time the election inspectors of the absent voter counting board report for duty on election day. Except as otherwise provided in section 764d, absent voter ballots received by the clerk by 8 p.m. on election day and approved for tabulation as provided under section 766 must be delivered to the absent voter counting board.

(6) Except as otherwise provided in section 759a for absent uniformed services voters and overseas voters, if an absent voter ballot return envelope is received by the clerk after the close of the polls, the clerk shall plainly mark the absent voter ballot return envelope with the time and date of receiving the absent voter ballot return envelope and shall file the absent voter ballot return envelope in the clerk's office. The city or township clerk shall as soon as practicable, but no later than 90 days after the election, notify by mail, telephone, or email any elector who returned an absent voter ballot return envelope with an absent voter ballot that was not tabulated. The notification provided to an elector by the city or township clerk under this subsection must inform the elector that the elector's absent voter ballot was not tabulated and the reason that the absent voter ballot was not tabulated.

(7) As close as possible to 8 p.m. on election day, the city or township clerk shall collect absent voter ballots from the post office at which the city or township clerk regularly receives mail addressed to the city or township clerk. Any return envelopes containing absent voter ballots that are received from the post office or from voters who voted by absent voter ballot in person in the clerk's office on election day must be reviewed and approved for tabulation before being delivered to the board of election inspectors or an absent voter counting board to be tabulated.

(8) On or before 8 a.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballots the clerk distributed to absent voters and the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk before election day and to be delivered to the board of election inspectors or the absent voter counting boards under this act. As soon as possible after all precincts in the city or township are processed, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballots tabulated for that election. The city or township

clerk shall maintain a record of the absent voter ballots that reconciles the number of absent voter ballots received as recorded in the qualified voter file with the number of absent voter ballots tabulated at the polling place locations or absent voter counting board locations in that city or township. This subsection applies only to elections in which a federal or state office appears on the ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2018, Act 120, Eff. Dec. 31, 2018;—Am. 2018, Act 127, Imd. Eff. May 3, 2018;—Am. 2018, Act 603, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 95, Imd. Eff. June 23, 2020;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2022, Act 195, Imd. Eff. Oct. 7, 2022;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

**168.765a Absent voter counting board; processing and tabulating of ballots before election; written notice; instructions and procedures; prohibition of photography or recording within counting place; violations; penalties.**

Sec. 765a. (1) Subject to section 764d, if a city or township decides to use absent voter counting boards, the board of election commissioners of that city or township shall establish an absent voter counting board for each election day precinct in that city or township. The ballot form of an absent voter counting board must correspond to the ballot form of the election day precinct for which it is established. A city or township with 250 or more precincts may establish at least 1 absent voter counting board for each ballot form containing identical offices and candidate names, and that is considered a separate precinct for purposes of this section. After the polls close on election day, the county, city, or township clerk responsible for producing the accumulation report of the election results shall format the accumulation report as required under section 798b.

(2) Subject to section 764d, the board of election commissioners shall appoint the election inspectors to absent voter counting boards not less than 21 days before the election at which the absent voter counting boards are to be used. Sections 673a and 674 apply to the appointment of election inspectors to absent voter counting boards under this section.

(3) If more than 1 absent voter counting board is to be used, the city or township clerk shall determine the number of electronic tabulators and the number of election inspectors to be used in each of the absent voter counting boards and to which absent voter counting board the absent voter ballots for each precinct are assigned for counting.

(4) In a city or township that uses absent voter counting boards under this section, the absent voter ballots must be counted in the manner provided in this section and, except as otherwise provided in section 764d, absent voter ballots must not be delivered to the polling places. Subject to section 764d, the board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. Section 662 applies to the designation of the absent voter counting place or places in which the absent voter ballots will be processed and tabulated by election inspectors assigned to the absent voter counting boards under this section, except the location may be in a different jurisdiction if the county provides a tabulator for use at a central absent voter counting board location in that county. The places must be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to election day precincts, including laws relating to the appointment of election inspectors, apply to absent voter counting places. The provisions of this section relating to tabulating absent voter ballots by electronic voting systems apply. High-speed tabulators and software to support those high-speed tabulators, as a component of an electronic voting system approved by the board of state canvassers for use in this state, may be used to tabulate absent voter ballots in an absent voter counting board. There is no limit on the number of absent voter counting boards that may be assigned to 1 building.

(5) The clerk of a city or township that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out the absent voter counting board's duties under this act. The supplies must be furnished to the city or township clerk in the same manner and by the same persons or agencies as for election day precincts.

(6) Except as otherwise provided in this section, the absent voter counting boards and combined absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in election day precincts. The poll book may be combined with the absent voter list or record required by section 760, and the applications for absent voter ballots may be used as the poll list. Subject to subsection (11), the processing and tabulating of absent voter ballots must commence at the time set by the board of election commissioners, but no earlier than 7 a.m. on the day of the election.

(7) An election inspector, challenger, or any other individual in attendance at an absent voter counting place or combined absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the clerk, a member of the clerk's staff, or the

chairperson or a member of the absent voter counting board or combined absent voter counting board:

"I (name of individual taking oath) do solemnly swear (or affirm) that I shall not communicate in any way information relative to any ballots or the tabulation of votes that may come to me while in this counting place until after the polls are closed. Further, I shall not photograph, or audio or video record, within the counting place, except for posted election results."

(8) The oaths administered under subsection (7) must be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election, the oaths must be delivered to the city or township clerk. Subject to this subsection, the clerk of a city or township may allow the election inspectors appointed to an absent voter counting board in that city or township to work in shifts. A second or subsequent shift of election inspectors appointed for an absent voter counting board may begin that shift at the time provided by the city or township clerk. If the election inspectors appointed to an absent voter counting board are authorized to work in shifts, at no time shall the absent voter ballots be left unattended during the transition from one shift to the next shift, or at any other time during the day after ballots are removed from the absent voter ballot return envelopes and before the absent voter ballots are sealed in the ballot container. At all times while absent voter ballots are being processed and tabulated, at least 1 election inspector from each major political party must be present at the absent voter counting place and the policies and procedures adopted by the secretary of state regarding the counting of absent voter ballots must be followed.

(9) An individual who causes the polls to be closed or who discloses an election result before the polls can be legally closed on election day or in any manner characterizes how any ballot being counted has been marked is guilty of a felony.

(10) Tabulated absent voter ballots must be placed in an approved ballot container, and the ballot container must be sealed after all the ballots are tabulated in the manner provided by this act for election day precincts. The seal numbers must be recorded on the statement sheet, on the ballot container certificate, and in the poll book or addendum to the poll book.

(11) The board of election commissioners of a city or township with a population of at least 5,000, or a board of county election commissioners as provided under section 764d, may authorize that absent voter counting boards be established under subsection (1) to process and tabulate absent voter ballots between the hours of 7 a.m. and 8 p.m. on any of the 8 days before election day, beginning on the second Monday before election day and ending on the Monday immediately before election day. The board of election commissioners of any city or township, regardless of population size, may authorize and establish an absent voter counting board to process and tabulate absent voter ballots between the hours of 7 a.m. and 8 p.m. on the Monday immediately before election day.

(12) In order to participate in the processing and tabulation of absent voter ballots before election day under subsection (11), the clerk of a county, city, or township shall submit a written notice to the secretary of state no later than 28 days before election day stating the clerk's intent to participate in the processing and tabulation of absent voter ballots before election day. No later than 20 days before an election, the secretary of state shall publish on the department of state's website a list of those cities and townships that have notified the secretary of state of an intent to process and tabulate absent voter ballots before election day. No later than 18 days before an election, a clerk who notified the secretary of state of the clerk's intent to process and tabulate absent voter ballots before election day must post on the website of the city or township, if available, and in the clerk's office, a notice providing the location of the absent voter counting place, the dates and hours of operation of the absent voter counting place, and the number of election inspectors who will process and tabulate absent voter ballots at the absent voter counting place. If the location, dates, hours, or number of election inspectors changes, the clerk must publicly post a revised notice as soon as possible, but no later than the eleventh day before an election, on the website of the city or township, if available, and in the clerk's office. A revised notice must include the updated location, dates, hours, and number of election inspectors. If the clerk changes the number of election inspectors on subsequent days after processing and tabulating begins, the clerk shall post the updated number of election inspectors on the website of the city or township, if available, and in the clerk's office, no later than 10 a.m. on the day before the changes occur. If a city or township clerk fails to post a notice by 10 a.m. on the day before a change reducing the number election inspectors occurs, the clerk shall allow the number of challengers to remain at the same level even though the reduction in the number of election inspectors may have reduced the number of allowed challengers.

(13) For each day of processing and tabulation of absent voter ballots before election day, a participating city or township clerk shall deliver the absent voter ballots approved for tabulation to an absent voter counting board. The instructions and procedures adopted by the secretary of state regarding the processing and tabulating of absent voter ballots before election day must be followed. Absent voter ballots must be processed and tabulated in the same manner and under the same requirements as absent voter ballots are processed and tabulated on election day. Election results must not be generated, printed, or reported before 8

p.m. on election day.

(14) During the processing and tabulation of absent voter ballots before election day, each political party, and each incorporated organization or organized committee of interested citizens as described under sections 730 and 731, may designate 1 challenger for every 8 election inspectors serving at the absent voter counting place. If there are 7 or fewer election inspectors serving at an absent voter counting place, each political party, and each incorporated organization or organized committee of interested citizens as designated under sections 730 and 731, may designate 1 challenger.

(15) During the processing and tabulation of absent voter ballots before election day, the election inspectors shall secure tabulated ballots in a sealed ballot container consistent with subsection (10) at the end of each day. Tabulated ballots may be added to a ballot container used on a previous day or may be placed in an unused ballot container. The election inspectors shall complete the poll book ballot summary at the conclusion of each day to account for absent voter ballot return envelopes and absent voter ballots processed and tabulated on that day. The poll book, or an addendum to the poll book, must be signed and dated by 1 election inspector from each major political party who is present at the location after tabulation is completed each day. The city or township clerk shall post the number of absent voter ballots tabulated each day on the website of that city or township, if available, and in the clerk's office.

(16) A clerk shall not deliver any absent voter ballots received on a day early voting is being conducted to an absent voter counting board to be processed or tabulated until the following day. An absent voter ballot may be processed and tabulated only after receipt of the absent voter ballot appears on the registration list or an addendum to the registration list in an early voting site and the voter history of electors casting an early voting ballot on the previous day is recorded in the qualified voter file. An absent voter ballot must be canceled if the absent voter cast a ballot at an early voting site.

(17) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards or combined absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to county, city, and township clerks 40 days or more before a general election in which absent voter counting boards or combined absent voter counting boards will be used. A county, city, or township clerk shall make the instructions developed under this subsection available to the public and shall make the instructions available for inspection by challengers in attendance at an absent voter counting board or combined absent voter counting board. The instructions developed under this subsection are binding on the operation of an absent voter counting board or combined absent voter counting board used in an election conducted by a county, city, or township.

(18) Except as otherwise provided in this subsection, an individual shall not photograph, or audio or video record, within an absent voter counting place. A county, city, or township clerk, or an assistant of that clerk, shall expel an individual from the absent voter counting place if that individual violates this subsection. This subsection does not apply to any of the following:

(a) An individual who photographs, or audio or video records, posted election results within an absent voter counting place.

(b) A county, city, or township clerk, or an employee, assistant, or consultant of that clerk, if the photographing, or audio or video recording, is done in the performance of that individual's official duties.

(c) If authorized by an individual in charge of an absent voter counting place, the news media that take wide-angled photographs or video from a distance that does not disclose the face of any marked ballot.

(19) An individual shall not photograph or video record a ballot or any other election records, other than posted election results, in an absent voter counting place. An individual who violates this subsection is guilty of a misdemeanor.

**History:** Add. 2018, Act 123, Eff. Dec. 31, 2018;—Am. 2020, Act 95, Imd. Eff. June 23, 2020;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

### **168.765b Procedure to spoil absent voter ballot.**

Sec. 765b. (1) Not later than 5 p.m. on the second Friday before an election, an elector may submit a signed, written statement to the elector's city or township clerk requesting that the clerk do both of the following:

(a) Spoil the elector's absent voter ballot.

(b) Provide or mail a new absent voter ballot to the elector.

(2) Upon receipt of a signed, written statement from an elector as described in subsection (1), the city or township clerk shall mark the absent voter ballot return envelope of that elector as "spoiled" and retain the envelope. In addition, the city or township clerk shall provide or mail a new absent voter ballot to that elector.

(3) An elector who has returned an absent voter ballot may, before 5 p.m. on the second Friday before an



election, appear in person at the elector's city or township clerk's office to do both of the following:

(a) Spoil the elector's absent voter ballot by submitting a signed, written statement to the city or township clerk indicating that the elector wishes to have the elector's absent voter ballot spoiled.

(b) Vote a new absent voter ballot in the clerk's office.

(4) Upon receipt of the signed, written statement from an elector as described in subsection (3)(a), the city or township clerk shall mark the absent voter ballot return envelope of that elector as "spoiled" and retain the envelope. In addition, the city or township clerk shall issue the elector a new absent voter ballot that must be voted by the elector in the clerk's office.

(5) Not later than 5 p.m. on the Friday immediately before an election, an elector who has lost the elector's absent voter ballot or not yet received the elector's absent voter ballot in the mail may submit a signed, written statement to the elector's city or township clerk requesting that the clerk do both of the following:

(a) Spoil the elector's absent voter ballot.

(b) Provide or mail a new absent voter ballot to the elector.

(6) Upon receipt of a signed, written statement from an elector as described in subsection (5), the city or township clerk shall indicate in the qualified voter file that the original ballot is spoiled. In addition, the city or township clerk shall provide or mail a new absent voter ballot to that elector.

(7) An elector who has lost the elector's absent voter ballot or not yet received the elector's absent voter ballot in the mail may, before 4 p.m. on the day before an election, except Sunday or a legal holiday, appear in person at the elector's city or township clerk's office to do both of the following:

(a) Spoil the elector's absent voter ballot by submitting a signed, written statement to the city or township clerk indicating that the elector wishes to have the elector's absent voter ballot spoiled.

(b) Vote a new absent voter ballot in the clerk's office.

(8) Upon receipt of the signed, written statement from an elector described in subsection (7)(a), the city or township clerk shall indicate in the qualified voter file that the original ballot is spoiled. In addition, the city or township clerk shall issue the elector a new absent voter ballot that must be voted by the elector in the clerk's office.

(9) An elector cannot spoil a ballot that has been tabulated.

**History:** Add. 2018, Act 127, Imd. Eff. May 3, 2018;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2022, Act 195, Imd. Eff. Oct. 7, 2022;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

### **168.765c Damaged or defective absent voter ballot; duplicate copy.**

Sec. 765c. If an absent voter ballot is damaged or defective so that the absent voter ballot cannot be properly counted by the electronic tabulating equipment, a true duplicate copy of that absent voter ballot must be made by the election inspectors from different political parties and substituted for the damaged or defective absent voter ballot. A damaged or defective absent voter ballot that cannot be properly counted by the electronic tabulating equipment includes an absent voter ballot issued to an elector that is for the wrong precinct. The election inspectors shall duplicate the absent voter ballot on the correct precinct ballot only for the candidates and ballot proposals that remain the same. Each duplicate ballot must be clearly labeled "duplicate" by the election inspectors, and that duplicate ballot must bear a serial number that is recorded on the damaged or defective absent voter ballot under procedures provided by the secretary of state.

**History:** Add. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

### **168.766 Marked ballot of an absent voter; verification; approval or rejection; opportunity to cure.**

Sec. 766. (1) On receipt of any envelope containing the marked ballot of an absent voter, the city or township clerk shall determine whether the ballot is approved for tabulation by verifying both of the following:

(a) The elector is a registered elector and has not voted in person in that election.

(b) Using the procedures required under section 766a, the signature on the absent voter ballot return envelope agrees sufficiently with the elector's signature on file.

(2) Subject to section 510(8), if the city or township clerk verifies the information in subsection (1)(a) and (b), the clerk shall approve the absent voter ballot for tabulation and record in the qualified voter file that the absent voter ballot has been approved for tabulation. Subject to subsection (3), if the city or township clerk is not able to verify the information in subsection (1)(a) and (b), the clerk must reject the absent voter ballot return envelope.

(3) If a city or township clerk rejects an absent voter ballot return envelope because the signature on the

absent voter ballot return envelope is missing or does not agree sufficiently with the elector's signature on file, the elector must be permitted an opportunity to cure the deficiency as provided under section 766a until 5 p.m. on the third day following the election in order for the absent voter ballot, if otherwise valid, to be accepted for tabulation.

(4) If an absent voter ballot return envelope that is eligible to be cured is not cured by the close of polls on election day, that absent voter ballot return envelope must be retained at the clerk's office, and must not be turned over to the board of election inspectors or to an absent voter counting board. An absent voter ballot return envelope that is cured after the close of the polls on election day, but before 5 p.m. on the third day following the election, must be accepted and the ballot tabulated if the elector has not voted in person in that election. An absent voter ballot return envelope that is not cured by 5 p.m. on the third day following the election remains rejected.

(5) On receipt of a cure form, as provided under section 766a, that resolves the signature deficiency on an elector's absent voter ballot return envelope, the clerk shall approve the ballot for tabulation.

(6) Not later than the sixth day after election day, each city or township clerk shall deliver the absent voter ballot return envelopes that have been cured under subsection (4) to the county clerk in a ballot container. The absent voter ballots in these cured absent voter ballot return envelopes shall be tabulated by the county clerk in a meeting of the board of county canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2018, Act 120, Eff. Dec. 31, 2018;—Am. 2023, Act 82, Eff. Feb. 13, 2024.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### **168.766a Verification of signature; rejection of ballot; opportunity to cure; manner; notice; "signature on file" defined.**

Sec. 766a. (1) A clerk may determine that a signature on an elector's absent voter ballot application or absent voter ballot envelope does not agree sufficiently with the signature on file only after reviewing the signature using the process set forth in this section.

(2) An elector's signature is invalid only if it differs in significant and obvious respects from the elector's signature on file. Slight dissimilarities must be resolved in favor of the elector. Exact signature matches are not required to determine that a signature agrees sufficiently with the signature on file.

(3) If a clerk determines that the elector's signature on the absent voter ballot application or absent voter ballot return envelope is missing or does not agree sufficiently with the signature on file, the clerk shall reject the absent voter ballot application or absent voter ballot return envelope and provide the elector with notice and the opportunity to cure the deficiency as provided in this section. The clerk shall notify the elector of all of the following:

(a) The nature of the deficiency and that the deficiency has resulted in the rejection of the elector's absent voter ballot application or absent voter ballot return envelope.

(b) The need to cure the deficiency in order for the absent voter ballot application to be accepted or for the absent voter ballot to be tabulated.

(c) How to cure the deficiency.

(d) The deadline for curing the deficiency.

(e) The alternative methods of voting if the deficiency is not cured.

(4) The clerk shall notify the elector of the deficiency described in subsection (3) within the deadlines specified under section 766b. The clerk must notify the elector by telephone, email, or text message, if available. In the absence of the elector's telephone number or email address, the clerk must notify the elector by United States mail. The clerk may also provide notice to the elector by any other available methods of contact. Electronic notification of the rejection of the absent voter ballot application or absent voter ballot return envelope under section 764c that provides the information required by this section constitutes sufficient notification to the elector.

(5) An elector may cure a deficiency described in subsection (3) by completing and submitting a cure form. The secretary of state shall prescribe the content and requirements of the cure form. An elector shall be permitted to receive and return a cure form electronically, in person, or by mail with postage prepaid as a supplement to the prepaid postage for the absent voter ballot application or absent voter ballot return envelope. The city or township clerk in which the elector is registered may physically collect a cure form

from the elector. A cure form must provide the elector the option to cure a deficiency in the elector's absent voter ballot application or absent voter ballot return envelope by signing the statement required for the absent voter ballot application or absent voter ballot return envelope under section 759 or 761. The secretary of state shall modify the statements to reflect that the elector is signing a cure form for the absent voter ballot application or absent voter ballot return envelope rather than the original absent voter ballot application or absent voter ballot return envelope. An elector must be permitted to submit an electronic image of the elector's physical signature in lieu of a physical signature for a cure form returned electronically. A clerk shall accept a cure form submitted under this subsection if the signature on the cure form agrees sufficiently with the signature on file, using the process as provided in this section. If the clerk determines that the signature on the cure form does not agree sufficiently with the signature on file, the clerk shall reject the cure form and contact the elector to provide information on other options to cure the deficiency and to provide the alternative methods of voting available for that election.

(6) The secretary of state may issue instructions to clerks to provide electors with other options, other than by providing a signature under subsection (5), to cure the deficiency in the elector's absent voter ballot application or absent voter ballot return envelope.

(7) As used in this chapter, "signature on file" means any of the following:

(a) Any signature of an elector contained in the qualified voter file.

(b) If the qualified voter file does not contain a copy of an elector's digitized signature, or is not accessible, the signature of the elector contained on the master card.

(c) Only for purposes of the signature comparison conducted under section 766 for an elector's absent voter ballot envelope, the signature on the elector's absent voter ballot application.

**History:** Add. 2023, Act 82, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.766b Verification or rejection of absent voter ballot application or return envelope; timing based on date of election; date of receipt.**

Sec. 766b. (1) Beginning 45 days before an election, if an absent voter ballot application or an absent voter ballot return envelope is received 6 or more calendar days before an election, the clerk must make a reasonable effort to verify or reject the absent voter ballot application or absent voter ballot return envelope by the end of the next business day following the receipt of that application or return envelope. If the clerk determines that the elector's signature on the absent voter ballot application or absent voter ballot return envelope is missing or does not agree sufficiently with the signature on file, the clerk must notify the elector as provided under section 766a by the end of the next business day following the receipt of the absent voter ballot application or absent voter ballot return envelope.

(2) Subject to subsection (3), if an absent voter ballot application or absent voter ballot return envelope is received 5 or fewer days before an election or on election day, the clerk must verify or reject the absent voter ballot application or absent voter ballot return envelope by the end of the calendar day of receiving that application or return envelope. Subject to subsection (3), if the clerk determines that the elector's signature on the absent voter ballot application or absent voter ballot return envelope is missing or does not agree sufficiently with the signature on file, the clerk must notify the elector as provided under section 766a by the end of the calendar day on which the application or return envelope was received.

(3) If the clerk determines that the elector's signature on an absent voter ballot application is missing or does not agree sufficiently with the signature on file after 4 p.m. on the fourth day before the election, the elector must be notified of the rejection of the elector's absent voter ballot application under section 761.

(4) If an absent voter ballot application or absent voter ballot return envelope comes into the physical control of the clerk's office before or during the clerk's scheduled business hours on a day, that absent voter ballot application or absent voter ballot return envelope is considered received by the clerk on that day. If an absent voter ballot application or absent voter ballot return envelope comes into the physical control of the clerk's office after the end of the clerk's scheduled business hours on a day, or if the absent voter ballot application or absent voter ballot return envelope comes into the physical control of the clerk's office on a day on which the clerk does not have scheduled business hours, that absent voter ballot application or absent voter ballot return envelope is considered received by the clerk on the first subsequent day on which the clerk has scheduled business hours.

(5) Each absent voter ballot application or absent voter ballot return envelope retrieved from an absent voter ballot drop box before or during the clerk's scheduled business hours is considered received by the clerk on the day the application or return envelope is retrieved. An absent voter ballot application or absent voter ballot return envelope retrieved from an absent voter ballot drop box after the end of the clerk's scheduled business hours on a day, or deposited in an absent voter ballot drop box on a day on which the clerk does not

have scheduled business hours, is not considered received by the clerk until the first subsequent day on which the clerk has scheduled business hours.

(6) An absent voter ballot return envelope that is collected by an election official through the procedure provided under 764b(4) or (5) is considered received when the election official comes into physical possession of the absent voter ballot return envelope.

(7) Nothing in this section prevents a clerk from providing a notification to an elector under section 761 or 766 in a more timely manner than required.

**History:** Add. 2023, Act 82, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.767 Repealed. 2023, Act 81, Eff. Feb. 13, 2024.**

**Compiler's note:** The repealed section pertained to the rejection of illegal absent voters' ballots.

**Popular name:** Election Code

#### **168.768 Absent voters' ballots; verification and preparation for tabulation procedures.**

Sec. 768. The board of election inspectors shall verify that there is an elector's signature on the absent voter ballot return envelope and that the statement on the absent voter ballot return envelope that the ballot is approved for tabulation is complete. If the elector's signature is missing or the statement that the absent voter ballot is approved for tabulation is incomplete, the board of election inspectors must immediately contact the city or township clerk. If the elector's signature is present and the statement that the absent voter ballot is approved for tabulation is complete, the board of election inspectors shall open the absent voter ballot return envelope, take out the ballot, and, without unfolding the ballot, compare the ballot number on the ballot stub with the ballot number on the face of the absent voter ballot return envelope. If the ballot numbers match, the board of election inspectors shall detach the perforated numbered stub and prepare the ballot for tabulation, as directed by the secretary of state. Each ballot must be inserted into the tabulator. One of the election inspectors shall enter the elector in the poll book as having cast an absent voter ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.768a Absent voter ballot drop off; instructions.**

Sec. 768a. (1) Except as otherwise provided under subsection (4), an absent voter may take the absent voter's marked absent voter ballot to the absent voter's election day polling place or to an appropriate early voting site during the early voting period as provided under section 4(1)(m) of article II of the state constitution of 1963 to personally put the absent voter's marked absent voter ballot into a tabulator to be tabulated. An absent voter described under this subsection shall do all of the following:

(a) Place the marked absent voter ballot in the secrecy sleeve that was provided to the absent voter.

(b) Bring the marked absent voter ballot in the secrecy sleeve to the absent voter's election day polling place or early voting site.

(c) Comply with the same identification requirements as an elector voting in person under section 523.

(2) If an elector brings an absent voter ballot to an election day polling place or to an early voting site without a secrecy sleeve, an election inspector shall provide a secrecy sleeve to that elector and instruct the elector to place the absent voter ballot in the secrecy sleeve.

(3) The election inspectors processing an absent voter under this section must note in the poll book that the absent voter returned the absent voter's absent voter ballot to the election day polling place or early voting site and that the absent voter's absent voter ballot was tabulated.

(4) If the tabulators in an election day polling place cannot be programmed to accept and tabulate absent voter ballots as provided under section 764a(3), an absent voter is not authorized to return the absent voter's absent voter ballot to an election day polling place to be tabulated as provided under section 764a(3). An absent voter may still return the absent voter's absent voter ballot to an election day polling place, surrender the absent voter ballot to an election inspector, be issued another ballot, and vote that ballot in the polling place.

**History:** Add. 2023, Act 81, Eff. Feb. 13, 2024.

**Popular name:** Election Code

#### **168.769 Absent voter ballots; voting in person; return of ballot; voting in person and absent voter ballot as felony; report.**

Sec. 769. (1) An absent voter may vote in person within the absent voter's precinct at an election, notwithstanding that the absent voter applies for an absent voter ballot and the absent voter ballot is mailed or

otherwise delivered to the absent voter by the clerk. This subsection applies only if the absent voter does not vote the absent voter ballot mailed or otherwise delivered by the clerk.

(2) Before voting in person, except as otherwise provided in this section, the absent voter shall return the absent voter ballot to the board of election inspectors in the absent voter's precinct. If an absent voter ballot is returned under this subsection, the board of election inspectors shall mark the absent voter ballot "CANCELED" and place the absent voter ballot in the regular box with other canceled ballots. This subsection does not apply to an absent voter who brings the absent voter's marked absent voter ballot to be cast on the tabulator at the absent voter's election day polling place or early voting site as provided under section 768a.

(3) An absent voter who did not receive an absent voter ballot that the absent voter applied for or lost or destroyed an absent voter ballot the absent voter received, and who desires to vote in person in the absent voter's precinct on election day, shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, a voter being allowed to vote under this subsection is subject to challenge as provided in section 727.

(4) An individual who votes at an election both in person and by means of an absent voter ballot or an individual who attempts to vote both in person and by means of an absent voter ballot is guilty of a felony.

(5) An election official who becomes aware of an individual who votes or attempts to vote both in person and by means of an absent voter ballot shall report that information to the prosecuting attorney for that county and to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2023, Act 81, Eff. Feb. 13, 2024.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

- Eliminate "straight party" vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_  
No \_\_\_\_\_

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.769a Repealed. 2018, Act 123, Eff. Dec. 31, 2018.**

**Compiler's note:** The repealed section pertained to use of voting machine by absentee voter.

**Popular name:** Election Code