

**SUBSTITUTE FOR  
SENATE BILL NO. 757**

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending sections 765, 765a, and 765b (MCL 168.765, 168.765a,  
and 168.765b), section 765 as amended by 2018 PA 603, section 765a  
as added by 2018 PA 123, and section 765b as added by 2018 PA 127,  
and by adding sections 14b and 24k.

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

1           **Sec. 14b. As used in this act, "absent voter ballot secrecy**  
2 **envelope container" means a container described in section 24k that**  
3 **is used for storing and securing absent voter ballot secrecy**  
4 **envelopes that are removed from the absent voter ballot return**  
5 **envelopes on the day before election day as provided in section**  
6 **765.**



1           Sec. 24k. (1) An absent voter ballot secrecy envelope  
2 container includes a ballot bag, box, transfer case, or other  
3 container used to store and secure absent voter ballot secrecy  
4 envelopes.

5           (2) A manufacturer or distributor of an absent voter ballot  
6 secrecy envelope container shall submit an absent voter ballot  
7 secrecy envelope container to the secretary of state for approval  
8 under the requirements of subsection (3) before the container is  
9 sold to a city or township for use at an election.

10           (3) The secretary of state shall not approve an absent voter  
11 ballot secrecy envelope container unless the container meets both  
12 of the following requirements:

13           (a) The container is made of metal, plastic, fiberglass, or  
14 other material, that provides resistance to tampering.

15           (b) The container is capable of being sealed.

16           (4) Before August 1, 2020, and before June 1 of every fourth  
17 year after 2020, each board of county canvassers shall examine the  
18 absent voter ballot secrecy envelope containers to be used in any  
19 election conducted under this act. The board of county canvassers  
20 shall designate on the absent voter ballot secrecy envelope  
21 container that the absent voter ballot secrecy envelope container  
22 does or does not meet the requirements under subsection (3). An  
23 absent voter ballot secrecy envelope container that is not approved  
24 by a board of county canvassers must not be used to store and  
25 secure any absent voter ballot secrecy envelopes.

26           (5) A city or township clerk may procure, at the expense of  
27 the respective city or township, absent voter ballot secrecy  
28 envelope containers that are approved under this section.

29           (6) A city or township clerk who uses or permits the use of an



1 absent voter ballot secrecy envelope container that is not approved  
2 under this section is guilty of a misdemeanor.

3 Sec. 765. (1) A—**Except as otherwise provided in subsection**  
4 **(6),** a clerk who receives an absent voter ballot return envelope  
5 containing the marked ballots of an absent voter shall not open  
6 that envelope before delivering the envelope to the board of  
7 election inspectors as provided in this section. ~~The~~**Except as**  
8 **otherwise provided in subsection (6),** the city or township clerk  
9 shall safely keep in his or her office until election day any  
10 absent voter ballot return envelopes received by the clerk before  
11 election day containing the marked ballots of an absent voter.

12 (2) Before the opening of the polls on election day or as soon  
13 after the opening of the polls as possible, the clerk shall deliver  
14 the absent voter ballot return envelopes to the chairperson or  
15 other member of the board of election inspectors in the absent  
16 voter's precinct, together with the signed absent voter ballot  
17 applications received by the clerk from any voters of that precinct  
18 and the clerk's list or record kept relative to those absent  
19 voters. However, if higher numbered ballots are used under section  
20 717, the clerk shall retain the applications and lists in his or  
21 her office and shall keep the applications and lists open to public  
22 inspection at all reasonable hours. Absent voter ballots must not  
23 be tabulated before the opening of the polls on election day.

24 (3) The city or township clerk, or authorized designee of the  
25 clerk, shall call for and receive absent voter ballots from the  
26 post office at which the city or township clerk regularly receives  
27 mail addressed to the city or township clerk on election day. Any  
28 envelopes containing absent voter ballots that are received from  
29 the post office or from voters who voted by absentee ballot in



1 person in the clerk's office on election day must be delivered to  
2 the board of election inspectors or the absent voter counting  
3 boards to be tabulated.

4 (4) If a marked absent voter ballot is received by the clerk  
5 after the close of the polls, the clerk shall plainly mark the  
6 envelope with the time and date of receipt and shall file the  
7 envelope in his or her office.

8 (5) On or before 8 a.m. on election day, the clerk shall post  
9 in the clerk's office or otherwise make public the number of absent  
10 voter ballots the clerk distributed to absent voters and the number  
11 of absent voter ballot return envelopes containing the marked  
12 ballots of absent voters received by the clerk before election day  
13 and to be delivered to the board of election inspectors or the  
14 absent voter counting boards under this act. On or before 9 p.m. on  
15 election day, the clerk shall post in the clerk's office or  
16 otherwise make public the number of absent voter ballot return  
17 envelopes containing the marked ballots of absent voters received  
18 by the clerk on election day and delivered to the board of election  
19 inspectors, under subsection (3), along with the total number of  
20 absent voter ballot return envelopes containing the marked ballots  
21 of absent voters received by the clerk both before and on election  
22 day and delivered to the board of election inspectors or the absent  
23 voter counting boards under this act. As soon as possible after all  
24 precincts in the city or township are processed, the clerk shall  
25 post in the clerk's office or otherwise make public the number of  
26 absent voter ballot return envelopes containing the marked ballots  
27 of absent voters received by the election inspectors at the  
28 precincts on election day, along with the total number of absent  
29 voter ballot return envelopes containing the marked ballots of



1 absent voters received in the city or township for that election.  
2 This subsection applies only to elections in which a federal or  
3 state office appears on the ballot.

4 (6) If the clerk of a city or township with a population of at  
5 least 25,000 provides written notice in compliance with this  
6 subsection to the secretary of state 40 days or more before  
7 election day, that city or township clerk, or his or her authorized  
8 designee, may between the hours of 10 a.m. and 8 p.m. on the day  
9 before election day perform certain absent voter ballot pre-  
10 processing activities as described in this subsection. The written  
11 notice provided to the secretary of state must include the location  
12 and hours that the absent voter ballot return envelopes will be  
13 opened in that city or township. The secretary of state shall post  
14 any written notice received from the clerk of a city or township  
15 under this subsection on the department of state website. In  
16 addition, the clerk of the city or township shall post the written  
17 notice provided to the secretary of state on the city or township  
18 website. The board of election commissioners shall appoint election  
19 inspectors to the location where absent voter ballot return  
20 envelopes will be opened in that city or township not less than 21  
21 days or more than 40 days before the day at which they are to be  
22 used. Sections 673a and 674 apply to the appointment of election  
23 inspectors under this subsection. All requirements for election  
24 inspectors appointed to an absent voter counting board under  
25 section 765a apply to election inspectors appointed under this  
26 subsection. At all times, at least 1 election inspector from each  
27 major political party must be present at the location and the  
28 policies and procedures adopted by the secretary of state regarding  
29 the handling of absent voter ballot return envelopes and absent



1 voter ballot secrecy envelopes must be followed. After providing  
2 written notice to the secretary of state in compliance with this  
3 subsection, a city or township clerk, or his or her authorized  
4 designee, is only authorized to open absent voter ballot return  
5 envelopes on the day before election day and is not authorized to  
6 remove absent voter ballots from the absent voter ballot secrecy  
7 envelopes. If an opened absent voter ballot return envelope  
8 contains an absent voter ballot that is not contained in an absent  
9 voter ballot secrecy envelope, the city or township clerk, or his  
10 or her designee, shall immediately insert that absent voter ballot  
11 into an absent voter ballot secrecy envelope. The opening of absent  
12 voter ballot return envelopes must be done at a location designated  
13 by the city or township clerk, and the location and opening of  
14 absent voter ballot return envelopes must be accessible to  
15 challengers as described in section 730. The election inspectors  
16 appointed to the location where absent voter ballot return  
17 envelopes will be opened in that city or township must never leave  
18 the absent voter ballot secrecy envelopes unattended. Once the  
19 absent voter ballot return envelopes have been opened as provided  
20 in this subsection, the absent voter ballot secrecy envelopes  
21 containing the absent voter ballots to be counted must be stored  
22 and secured in an absent voter ballot secrecy envelope container,  
23 as described in section 24k, and sealed. The city or township clerk  
24 shall record the seal number in the poll book, or an addendum to  
25 the poll book, and follow all other policies and procedures adopted  
26 by the secretary of state regarding absent voter ballots. The poll  
27 book, or an addendum to the poll book, must be signed and dated by  
28 1 election inspector from each major political party who is present  
29 at the location on the day before election day. The city or



1 township clerk shall store the absent voter ballot secrecy envelope  
2 container containing the absent voter ballot secrecy envelopes in a  
3 secure location until election day.

4 (7) The election inspectors who are appointed under subsection  
5 (6) shall record in the poll book, or an addendum to the poll book,  
6 all of the following:

7 (a) The number of absent voter ballot return envelopes that  
8 were opened on the day before election day.

9 (b) The number of absent voter ballot return envelopes  
10 delivered to the election inspectors that did not contain an  
11 elector's signature and that were returned to the city or township  
12 clerk.

13 (c) The number of absent voter ballot return envelopes that  
14 were challenged, not opened by the election inspectors, and set  
15 aside to be processed by the election inspectors on election day.

16 (8) The election inspectors who are appointed to an absent  
17 voter counting board on election day as provided in section 765a  
18 shall do all of the following:

19 (a) Verify the seal number recorded in the poll book, or an  
20 addendum to the poll book, for any absent voter ballot secrecy  
21 envelope container delivered to the absent voter counting board.

22 (b) Count and record in the poll book, or an addendum to the  
23 poll book, both of the following:

24 (i) The number of absent voter ballot return envelopes opened  
25 by the election inspectors on the day before election day as  
26 provided under subsection (6) and the number of absent voter ballot  
27 secrecy envelopes delivered to the absent voter counting board on  
28 election day.

29 (ii) The number of absent voter ballot return envelopes that



1 were challenged, not opened by the election inspectors on the day  
2 before election day, and set aside to be processed by the election  
3 inspectors on election day.

4 Sec. 765a. (1) If a city or township decides to use absent  
5 voter counting boards, the board of election commissioners of that  
6 city or township shall establish an absent voter counting board for  
7 each election day precinct in that city or township. The ballot  
8 form of an absent voter counting board must correspond to the  
9 ballot form of the election day precinct for which it is  
10 established. After the polls close on election day, the county,  
11 city, or township clerk responsible for producing the accumulation  
12 report of the election results submitted by the boards of precinct  
13 election inspectors shall format the accumulation report to clearly  
14 indicate all of the following:

- 15 (a) The election day precinct returns.  
16 (b) The corresponding absent voter counting board returns.  
17 (c) A total of each election day precinct return and each  
18 corresponding absent voter counting board return.

19 (2) The board of election commissioners shall establish the  
20 absent voter counting boards. The board of election commissioners  
21 shall appoint the election inspectors to those absent voter  
22 counting boards not less than 21 days or more than 40 days before  
23 the election at which they are to be used. Sections 673a and 674  
24 apply to the appointment of election inspectors to absent voter  
25 counting boards under this section. The board of election  
26 commissioners shall determine the number of ballots that may be  
27 expeditiously counted by an absent voter counting board in a  
28 reasonable period of time, taking into consideration the size and  
29 complexity of the ballot to be counted pursuant to the guidelines



1 of the secretary of state. Combined ballots must be regarded as the  
2 number of ballots as there are sections to the ballot.

3 (3) If more than 1 absent voter counting board is to be used,  
4 the city or township clerk shall determine the number of electronic  
5 voting systems or the number of ballot boxes and the number of  
6 election inspectors to be used in each of the absent voter counting  
7 boards and to which absent voter counting board the absent voter  
8 ballots for each precinct are assigned for counting.

9 (4) In a city or township that uses absent voter counting  
10 boards under this section, absent voter ballots must be counted in  
11 the manner provided in this section and absent voter ballots must  
12 not be delivered to the polling places. The board of election  
13 commissioners shall provide a place for each absent voter counting  
14 board to count the absent voter ballots. Section 662 applies to the  
15 designation and prescribing of the absent voter counting place or  
16 places in which the absent voter counting board performs its duties  
17 under this section, except the location may be in a different  
18 jurisdiction if the county provides a tabulator for use at a  
19 central absent voter counting board location in that county. The  
20 places must be designated as absent voter counting places. Except  
21 as otherwise provided in this section, laws relating to paper  
22 ballot precincts, including laws relating to the appointment of  
23 election inspectors, apply to absent voter counting places. The  
24 provisions of this section relating to placing of absent voter  
25 ballots on electronic voting systems apply. More than 1 absent  
26 voter counting board may be located in 1 building.

27 (5) The clerk of a city or township that uses absent voter  
28 counting boards shall supply each absent voter counting board with  
29 supplies necessary to carry out its duties under this act. The



1 supplies must be furnished to the city or township clerk in the  
2 same manner and by the same persons or agencies as for other  
3 precincts.

4 (6) Absent voter ballots received by the clerk before election  
5 day must be delivered to the absent voter counting board by the  
6 clerk or the clerk's authorized assistant at the time the election  
7 inspectors of the absent voter counting boards report for duty,  
8 which time must be established by the board of election  
9 commissioners. Absent voter ballots received by the clerk before  
10 the time set for the closing of the polls on election day must be  
11 delivered to the absent voter counting boards. ~~Absent~~ **Except as**  
12 **otherwise provided in section 765(6), absent** voter ballots must be  
13 delivered to the absent voter counting boards in the sealed absent  
14 voter ballot return envelopes in which they were returned to the  
15 clerk. Written or stamped on each of the return envelopes must be  
16 the time and the date that the envelope was received by the clerk  
17 and a statement by the clerk that the signatures of the absent  
18 voters on the envelopes have been checked and found to agree with  
19 the signatures of the voters on the registration cards or the  
20 digitized signatures of voters contained in the qualified voter  
21 file as provided under section 766. If a signature on the  
22 registration card or a digitized signature contained in the  
23 qualified voter file and on the absent voter ballot return envelope  
24 does not agree as provided under section 766, if the absent voter  
25 failed to sign the envelope, or if the statement of the absent  
26 voter is not properly executed, the clerk shall mark the envelope  
27 "rejected" and the reason for the rejection and shall place his or  
28 her name under the notation. An envelope marked "rejected" must not  
29 be delivered to the absent voter counting board but must be



1 preserved by the clerk until other ballots are destroyed in the  
2 manner provided in this act. The clerk shall also comply with  
3 section 765(5).

4 (7) This chapter does not prohibit an absent voter from voting  
5 in person within the voter's precinct at an election,  
6 notwithstanding that the voter may have applied for an absent voter  
7 ballot and the ballot may have been mailed or otherwise delivered  
8 to the voter. The voter, the election inspectors, and other  
9 election officials shall proceed in the manner prescribed in  
10 section 769. The clerk shall preserve the canceled ballots for 2  
11 years.

12 (8) The absent voter counting boards shall process the ballots  
13 and returns in as nearly as possible the same manner as ballots are  
14 processed in paper ballot precincts. The poll book may be combined  
15 with the absent voter list or record required by section 760, and  
16 the applications for absent voter ballots may be used as the poll  
17 list. The processing and tallying of absent voter ballots may  
18 commence at 7 a.m. on the day of the election.

19 (9) An election inspector, challenger, or any other person in  
20 attendance at an absent voter counting place at any time after the  
21 processing of ballots has begun shall take and sign the following  
22 oath that may be administered by the chairperson or a member of the  
23 absent voter counting board:

24 "I (name of person taking oath) do solemnly swear (or affirm)  
25 that I shall not communicate in any way any information relative to  
26 the processing or tallying of votes that may come to me while in  
27 this counting place until after the polls are closed."

28 (10) The oaths administered under subsection (9) must be  
29 placed in an envelope provided for the purpose and sealed with the



1 red state seal. Following the election, the oaths must be delivered  
2 to the city or township clerk. Except as otherwise provided in  
3 subsection (12), a person in attendance at the absent voter  
4 counting place shall not leave the counting place after the  
5 tallying has begun until the polls close. A person who causes the  
6 polls to be closed or who discloses an election result or in any  
7 manner characterizes how any ballot being counted has been voted in  
8 a voting precinct before the time the polls can be legally closed  
9 on election day is guilty of a felony.

10 (11) Voted absent voter ballots must be placed in an approved  
11 ballot container, and the ballot container must be sealed in the  
12 manner provided by this act for paper ballot precincts. The seal  
13 numbers must be recorded on the statement sheet and in the poll  
14 book.

15 (12) Subject to this subsection, a local election official who  
16 has established an absent voter counting board, the deputy or  
17 employee of that local election official, an employee of the state  
18 bureau of elections, a county clerk, an employee of a county clerk,  
19 or a representative of a voting equipment company may enter and  
20 leave an absent voter counting board after the tally has begun but  
21 before the polls close. A person described in this subsection may  
22 enter an absent voter counting board only for the purpose of  
23 responding to an inquiry from an election inspector or a challenger  
24 or providing instructions on the operation of the counting board.  
25 Before entering an absent voter counting board, a person described  
26 in this subsection must take and sign the oath prescribed in  
27 subsection (9). The chairperson of the absent voter counting board  
28 shall record in the poll book the name of a person described in  
29 this subsection who enters the absent voter counting board. A



1 person described in this subsection who enters an absent voter  
2 counting board and who discloses an election result or in any  
3 manner characterizes how any ballot being counted has been voted in  
4 a precinct before the time the polls can be legally closed on  
5 election day is guilty of a felony. As used in this subsection,  
6 "local election official" means a county, city, or township clerk.

7 (13) The secretary of state shall develop instructions  
8 consistent with this act for the conduct of absent voter counting  
9 boards. The secretary of state shall distribute the instructions  
10 developed under this subsection to city and township clerks 40 days  
11 or more before a general election in which absent voter counting  
12 boards will be used. A city or township clerk shall make the  
13 instructions developed under this subsection available to the  
14 public and shall distribute the instructions to each challenger in  
15 attendance at an absent voter counting board. The instructions  
16 developed under this subsection are binding upon the operation of  
17 an absent voter counting board used in an election conducted by a  
18 county, city, or township.

19 Sec. 765b. (1) Not later than 2 p.m. on the Saturday  
20 immediately before an election, an elector may submit a signed,  
21 written statement to his or her city or township clerk requesting  
22 that the clerk do both of the following:

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

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

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



1 that elector.

2 (3) An elector who has returned an absent voter ballot may,  
3 before ~~4 p.m.~~ **10 a.m.** on the day before an election except Sunday  
4 or a legal holiday, appear in person at his or her city or township  
5 clerk's office to do both of the following:

6 (a) Spoil his or her absent voter ballot by submitting a  
7 signed, written statement to the city or township clerk indicating  
8 that the elector wishes to have his or her absent voter ballot  
9 spoiled.

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

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

17 (5) Not later than 2 p.m. on the Saturday immediately before  
18 an election, an elector who has lost his or her absent voter ballot  
19 or not yet received his or her absent voter ballot in the mail may  
20 submit a signed, written statement to his or her city or township  
21 clerk requesting that the clerk do both of the following:

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

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

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

29 (7) An elector who has lost his or her absent voter ballot or



1 not yet received his or her absent voter ballot in the mail may,  
2 before 4 p.m. on the day before an election except Sunday or a  
3 legal holiday, appear in person at his or her city or township  
4 clerk's office to do both of the following:

5 (a) Spoil his or her absent voter ballot by submitting a  
6 signed, written statement to the city or township clerk indicating  
7 that the elector wishes to have his or her absent voter ballot  
8 spoiled.

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

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

