

**SUBSTITUTE FOR
SENATE BILL NO. 311**

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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



1 village shall electronically transmit a blank voter registration
2 application or blank absent voter ballot application to the voter.
3 The clerk of a county, city, township, or village shall accept a
4 completed voter registration application or completed absent voter
5 ballot application electronically transmitted by an absent
6 uniformed services voter or overseas voter. A voter registration
7 application or absent voter ballot application submitted by an
8 absent uniformed services voter or overseas voter ~~shall~~**must**
9 contain the signature of the voter.

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

16 (4) An absent uniformed services voter or an overseas voter,
17 whether or not registered to vote, may apply for an absent voter
18 ballot. Upon receipt of an application for an absent voter ballot
19 under this section that complies with this act, a county, city,
20 village, or township clerk shall forward to the applicant the
21 absent voter ballots requested, the forms necessary for
22 registration, and instructions for completing the forms. If the
23 ballots are not yet available at the time of receipt of the
24 application, the clerk shall immediately forward to the applicant
25 the registration forms and instructions, and forward the ballots as
26 soon as they are available. If a federal postcard application or an
27 application from the official United States ~~department~~**Department**
28 of ~~defense~~**Defense** website is filed, the clerk shall accept the
29 federal postcard application or the application from the official



1 United States ~~department~~**Department** of ~~defense~~**Defense** website as
 2 the registration application and shall not send any additional
 3 registration forms to the applicant. If the ballots and
 4 registration forms are received before the close of the polls on
 5 election day and if the registration complies with the requirements
 6 of this act, the absent voter ballots ~~shall~~**must** be delivered to
 7 the proper election board to be tabulated. If the registration does
 8 not comply with the requirements of this act, the clerk shall
 9 retain the absent voter ballots until the expiration of the time
 10 that the voted ballots must be kept and shall then destroy the
 11 ballots without opening the envelope. The clerk may retain
 12 registration forms completed under this section in a separate file.
 13 The address in this state shown on a registration form is the
 14 residence of the registrant.

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

20 (6) Upon the request of an absent uniformed services voter or
 21 overseas voter, the clerk of a county, city, township, or village
 22 shall electronically transmit an absent voter ballot to the voter.
 23 ~~The~~**Except as otherwise provided in this subsection, the** voter
 24 shall print the absent voter ballot and return the voted ballot by
 25 mail to the appropriate clerk. **A member of a uniformed service on**
 26 **active duty, by reason of being on active duty, or a member of the**
 27 **merchant marine, by reason of service in the merchant marine, who**
 28 **is absent from the United States and does not expect to return to**
 29 **the residence where the member is otherwise qualified to vote**



1 before an election may electronically return a voted ballot to the
2 appropriate city or township clerk to be counted under the policies
3 and procedures established by the secretary of state as set forth
4 in subsection (17).

5 (7) The secretary of state shall prescribe electronic absent
6 voter ballot formats and electronic absent voter ballot
7 transmission methods. Each county, city, township, or village clerk
8 shall employ the prescribed electronic ballot formats to fulfill an
9 absent voter ballot request received from an absent uniformed
10 services voter or overseas voter who wishes to receive his or her
11 absent voter ballot through an electronic transmission. The
12 secretary of state shall establish procedures to implement the
13 requirements in this section and for the processing of a marked
14 absent voter ballot returned by an absent uniformed services voter
15 or overseas voter who obtained his or her absent voter ballot
16 through an electronic transmission.

17 (8) The secretary of state shall modify the printed statement
18 provided under section 761(4) and the absent voter ballot
19 instructions provided under section 764a as appropriate to
20 accommodate the procedures developed for electronically
21 transmitting an absent voter ballot to an absent uniformed services
22 voter or overseas voter. A statement ~~shall~~**must** be included in the
23 certificate signed by the absent voter who obtained his or her
24 absent voter ballot through an electronic transmission that the
25 secrecy of the absent voter ballot may be compromised during the
26 duplication process. The absent voter ballot instructions provided
27 to an absent uniformed services voter or overseas voter ~~shall~~**must**
28 include the proper procedures for returning the absent voter ballot
29 to the appropriate clerk.



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

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

27 (11) An ~~electronic mail~~**email** address provided by an absent
28 uniformed services voter or overseas voter for the purposes of this
29 section is confidential and exempt from disclosure under the



1 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

6 (13) An absent uniformed services voter or an overseas voter
7 may use the federal write-in absentee ballot, in accordance with
8 the provisions of the uniformed and overseas citizens absentee
9 voting act, at a regular election or special election to vote for a
10 local, state, or federal office or on a ballot question. ~~An~~**Except**
11 **as otherwise provided in this subsection, an** absent uniformed
12 services voter or an overseas voter who uses the federal write-in
13 absentee ballot shall return his or her voted federal write-in
14 absentee ballot by mail to the appropriate clerk. **A member of a**
15 **uniformed service on active duty, by reason of being on active**
16 **duty, or a member of the merchant marine, by reason of service in**
17 **the merchant marine, who is absent from the United States and does**
18 **not expect to return to the residence where the member is otherwise**
19 **qualified to vote before an election may electronically return a**
20 **voted ballot to the appropriate city or township clerk to be**
21 **counted under the policies and procedures established by the**
22 **secretary of state as set forth in subsection (17).** The state
23 bureau of elections shall do both of the following:

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

28 (b) Make the ballot information, including the offices, names
29 of candidates, and ballot proposals, for each election available to



1 absent uniformed services voters and overseas voters on an internet
2 website maintained by the department of state.

3 (14) The clerk of a city, village, or township shall submit to
4 the county clerk of the county in which that city, village, or
5 township is located a written statement no later than 45 days
6 before each election indicating whether absent voter ballots were
7 issued to absent uniformed services voters or overseas voters in
8 compliance with this section and the uniformed and overseas
9 citizens absentee voting act. The city, village, or township clerk
10 shall provide to the county clerk a written explanation describing
11 remedial actions taken by the city, village, or township clerk if
12 the city, village, or township clerk fails to comply with this
13 section and the uniformed and overseas citizens absentee voting
14 act. Not later than 42 days before each election, each county clerk
15 shall submit to the state bureau of elections a written report
16 compiled from the written statements submitted by the city,
17 village, and township clerks. The written report ~~shall~~**must**
18 identify the cities, villages, and townships that complied with the
19 45-day deadline under this subsection, the cities, villages, and
20 townships that did not comply with the 45-day deadline under this
21 subsection, but provided a written explanation, and those cities,
22 villages, and townships that did not comply with the 45-day
23 deadline under this subsection and that did not provide a written
24 explanation. The state bureau of elections may require the clerk of
25 a city, village, or township that did not comply with the 45-day
26 deadline under this subsection, but provided a written explanation,
27 to provide additional information. The state bureau of elections
28 shall require the clerk of a city, village, or township that did
29 not comply with the 45-day deadline and that did not provide a



1 written explanation to file a written explanation, describing the
2 remedial actions taken by the city, village, or township clerk,
3 within 1 business day after the state bureau of elections notifies
4 the clerk of that city, village, or township.

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

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

28 **(17) The secretary of state shall promulgate rules that**
29 **establish policies and procedures for the electronic return of**



1 voted ballots by eligible members. In promulgating rules that
2 establish the policies and procedures for the electronic return of
3 voted ballots by eligible members, the secretary of state shall
4 require an eligible member to use a United States Department of
5 Defense verified electronic signature, as that term is defined in
6 section 18a, so that the identity of the eligible member can be
7 verified utilizing those policies and procedures. A member who is
8 unable or unwilling to provide a United States Department of
9 Defense verified electronic signature is not eligible to
10 electronically return a voted ballot. The secretary of state shall
11 take reasonable steps to ensure the integrity and secrecy of voted
12 ballots returned electronically. The secretary of state may develop
13 and maintain a secure web portal on the secretary of state's
14 website to facilitate the electronic return of voted ballots by
15 eligible members. No later than January 1, 2022, the secretary of
16 state shall promulgate rules pursuant to the administrative
17 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to
18 implement this subsection, and the secretary of state must allow
19 for the electronic return of voted ballots by eligible members
20 starting no later than the 2022 August primary election. As used in
21 this subsection, "eligible member" means a member of a uniformed
22 service on active duty or a member of the merchant marine, as
23 described in subsection (6) or (13).

24 (18) ~~(17)~~—As used in this section:

25 (a) "Absent uniformed services voter" means any of the
26 following:

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



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

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

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

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

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

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

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

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

29 (iii) A person who resides outside of the United States and who,



1 but for such residence outside of the United States, would be
2 qualified to vote in the last place in which he or she was
3 domiciled before leaving the United States.

4 (d) "Uniformed services" means the ~~army, navy, air force,~~
5 ~~marine corps, coast guard,~~ **Army, Navy, Air Force, Marine Corps, or**
6 **Coast Guard**, the ~~commissioned corps~~ **Commissioned Corps** of the
7 ~~public health service,~~ **Public Health Service**, the ~~commissioned~~
8 ~~corps~~ **Commissioned Corps** of the ~~national oceanic~~ **National Oceanic**
9 and ~~atmospheric administration,~~ **Atmospheric Administration**, a
10 reserve component of a uniformed service, or the Michigan ~~national~~
11 ~~guard~~ **National Guard** as **that term is** defined in section 105 of the
12 Michigan military act, 1967 PA 150, MCL 32.505.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. 8 of the 101st Legislature is enacted into
15 law.

