

HOUSE BILL No. 5529

February 21, 1990, Introduced by Rep. Berman and referred to the Committee on Elections.

A bill to amend sections 758c, 759, 764a, 931, and 942 of Act No. 116 of the Public Acts of 1954, entitled

"Michigan election law,"

section 758c as added by Act No. 172 of the Public Acts of 1982, section 759 as amended and section 764a as added by Act No. 201 of the Public Acts of 1982, and section 931 as amended by Act No. 113 of the Public Acts of 1984, being sections 168.758c, 168.759, 168.764a, 168.931, and 168.942 of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 758c, 759, 764a, 931, and 942 of Act
2 No. 116 of the Public Acts of 1954, section 758c as added by Act
3 No. 172 of the Public Acts of 1982, section 759 as amended and
4 section 764a as added by Act No. 201 of the Public Acts of 1982,
5 and section 931 as amended by Act No. 113 of the Public Acts of

1 1984, being sections 168.758c, 168.759, 168.764a, 168.931, and
2 168.942 of the Michigan Compiled Laws, are amended to read as
3 follows:

4 Sec. 758c. (1) A qualified and registered elector who is a
5 resident of a community college district and whose election pre-
6 cinct, that is within the community college district, contains
7 less than 50 registered electors shall be considered an absent
8 voter under this act for purposes of a special election of a com-
9 munity college district that is not held in conjunction with any
10 other state or local election.

11 (2) The local unit of government conducting ~~such an~~ THE
12 SPECIAL election shall mail, by first class mail, an absent
13 voters' ballot to each elector considered an absent voter under
14 this section. This mailing shall also include the separate
15 printed instructions prescribed by section ~~764~~ 764A. Mailings
16 pursuant to this section shall be made not less than 20 days nor
17 more than 30 days before the election.

18 (3) Election precincts to which this section applies ~~shall~~
19 ARE not ~~be~~ required to be open for any community college dis-
20 trict special election for which ballots were mailed pursuant to
21 this section.

22 Sec. 759. (1) At any time during the ~~75~~ 100 days
23 ~~preceding~~ BEFORE a primary or special primary, but not later
24 than 2 p.m. of the Saturday immediately before the primary or
25 special primary, a voter who qualifies to vote as an absent
26 voter, as defined in section 758, may apply ~~to~~ FOR AN ABSENT
27 VOTER BALLOT. THE VOTER SHALL APPLY IN PERSON OR BY MAIL WITH

1 THE CLERK OF the township, city, or village ~~clerk, either in~~
2 ~~person or by mail, to vote absentee~~ IN WHICH THE VOTER IS
3 REGISTERED. An application received before a primary or special
4 primary may be for either that primary only, or for that primary
5 and the election ~~which~~ THAT follows.

6 (2) ~~At~~ EXCEPT AS PROVIDED IN SUBSECTION (1), AT any time
7 during the ~~75~~ 100 days ~~preceding any other~~ BEFORE AN elec-
8 tion, but not later than 2 p.m. of the Saturday before the elec-
9 tion, a voter who qualifies to vote as an absent voter, as
10 defined in section 758, may apply ~~to~~ FOR AN ABSENT VOTER
11 BALLOT. THE VOTER SHALL APPLY IN PERSON OR BY MAIL WITH THE
12 CLERK OF the township, city, or village ~~clerk, either in person~~
13 ~~or by mail, to vote absentee~~ IN WHICH THE VOTER IS REGISTERED.

14 (3) An application FOR AN ABSENT VOTER BALLOT under this
15 section may be made in any of the following ways:

16 (a) By a written request signed by the voter stating the
17 statutory grounds for making the application.

18 (b) On an ABSENT VOTER BALLOT application form provided for
19 that purpose by the clerk of the city, township, or village.

20 (c) On a federal postcard application.

21 (4) A PERSON, INCLUDING, BUT NOT LIMITED TO, AN INDIVIDUAL,
22 A BUSINESS, A PROPRIETORSHIP, A FIRM, A PARTNERSHIP, A JOINT VEN-
23 TURE, A SYNDICATE, A BUSINESS TRUST, A LABOR ORGANIZATION, A COM-
24 PANY, A CORPORATION, AN ASSOCIATION, A COMMITTEE, OR ANY OTHER
25 ORGANIZATION OR GROUP OF PERSONS ACTING JOINTLY OR SEPARATELY
26 SHALL NOT PRINT FOR MASS DISTRIBUTION AN ABSENT VOTER BALLOT

1 APPLICATION FORM THAT HAS NOT BEEN APPROVED BY THE STATE DIRECTOR
2 OF ELECTIONS.

3 (5) ~~(4)~~ The clerk of the city, township, or village shall
4 have ABSENT VOTER BALLOT application forms available in the
5 office of the clerk at all times and shall furnish an ABSENT
6 VOTER BALLOT application form to anyone upon a verbal or written
7 request. The ABSENT VOTER BALLOT application shall be in sub-
8 stantially the following form and shall be signed by the
9 applicant:

10 "Application for absent voter's ballot for:

11 ☐ The primary or special primary election to be held
12 on , 19... .

13 ☐ The election to be held on , 19... .

14 (Check applicable election or elections)

15 I, , a duly qualified and registered elector of
16 the precinct of the township of or village
17 of or of the ward of the city
18 of , in the county of and state of
19 Michigan, make application for an official ballot, or ballots, to
20 be voted by me at the election or elections as requested in this
21 application.

22 The statutory grounds on which I base my request are:

23 ☐ I expect to be absent from the community in which I am
24 registered for the entire time the polls are open on election
25 day.

1 ☐ I am physically unable to attend the polls without the
2 assistance of another.

3 ☐ I cannot attend the polls because of the tenets of my
4 religion.

5 ☐ I have been appointed an election precinct inspector in a
6 precinct other than the precinct where I reside.

7 ☐ I am 60 years of age or older.

8 ☐ I cannot attend the polls because I am confined to jail
9 awaiting arraignment or trial.

10 (Check applicable reason)

11 Send absent voter's ballot to me at:

12

13 (Street No. or R.R.)

14

15 (Post Office) (State)

16 My registered address.....

17 (Street No. or R.R.)

18

19 (Post Office) (State)

20 Date.....

21 I declare the foregoing statements to be true.

22

23 (Signature)

24 A person making a false statement in this declaration is
25 guilty of a misdemeanor."

1 (6) ~~(5)~~ A person who makes a false statement in an
2 application for an absent voter's ballot is guilty of a
3 misdemeanor.

4 (7) A PERSON WHO SOLICITS AN ABSENT VOTER TO RETURN A COM-
5 PLETED ABSENT VOTER BALLOT APPLICATION TO A PERSON OTHER THAN A
6 CITY, TOWNSHIP, OR VILLAGE CLERK IS GUILTY OF A MISDEMEANOR.

7 (8) A PERSON WHO PRINTS OR CAUSES TO BE PRINTED ON AN ABSENT
8 VOTER BALLOT APPLICATION ANY MATERIAL ADVOCATING THE NOMINATION,
9 ELECTION, OR RECALL OF A CANDIDATE OR PUBLIC OFFICIAL IS GUILTY
10 OF A MISDEMEANOR.

11 Sec. 764a. The following instructions for an absent voter,
12 as defined by section 758, shall be included with each ballot or
13 set of ballots furnished an absent voter: —

14 INSTRUCTIONS FOR ABSENT VOTERS

15 Step 1. On the absent voter ballot enclosed you will find
16 voting instructions. Read these carefully and then vote the
17 ballot.

18 Step 2. After voting a ballot, prepare it for placing in
19 the return envelope addressed to the clerk in the manner directed
20 in the voting instructions.

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

23 Step 4. Sign AND DATE the return envelope in the place
24 designated. Your signature must appear on the return envelope or
25 the ballot will not be counted.

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

1 (a) Place the necessary postage upon the return envelope and
2 deposit it in the United States mail.

3 (b) Deliver the envelope personally to the office of the
4 clerk, to the clerk, or to an authorized assistant of the clerk.

5 (c) In either (a) or (b), a member of the immediate family
6 of the voter including a father-in-law, mother-in-law,
7 brother-in-law, sister-in-law, son-in-law, daughter-in-law,
8 grandparent, or grandchild or a person residing in the voter's
9 household may mail or deliver a ballot for the voter.

10 ~~(d) In the event a voter cannot return the ballot in any of~~
11 ~~the above methods, the voter may select any registered elector to~~
12 ~~return the ballot. The person returning the ballot must sign and~~
13 ~~return the following certificate to the clerk at the time of~~
14 ~~delivery of the ballot:~~

15 ~~I certify that my name is and my~~
16 ~~address is; that I am delivering the~~
17 ~~ballot of at his/her request; that I did~~
18 ~~not solicit or request to return the ballot; that I have not~~
19 ~~opened the envelope containing the ballot; have not made any~~
20 ~~markings on the ballot; have not altered the ballot in any way;~~
21 ~~have not substituted another ballot given to me for delivery;~~
22 ~~have not influenced the voter in the voting of the ballot and am~~
23 ~~aware that a false statement in this certificate is a violation~~
24 ~~of the Michigan election law.~~

25 Step 6. The ballot must reach the clerk or an authorized
26 assistant of the clerk before the close of the polls on election
27 day.

1 STEP 7. A BALLOT THAT IS DELIVERED FOR THE VOTER BY ANOTHER
2 PERSON UNDER STEP 5 SHALL BE MAILED OR DELIVERED BY THE OTHER
3 PERSON TO THE CLERK BEFORE THE END OF THE BUSINESS DAY FOLLOWING
4 RECEIPT OF THE BALLOT BY THE OTHER PERSON.

5 WARNING

6 It is a violation of Michigan election law to vote an absent
7 voter ballot at a meeting or gathering at which other people are
8 voting absent voter ballots. It is a violation of Michigan elec-
9 tion law for a person other than those listed in these instruc-
10 tions to return, offer to return, agree to return, or solicit to
11 return your ballot to the clerk. An authorized assistant of the
12 clerk who receives ballots at a location other than the office of
13 the clerk must have credentials signed by the clerk. Ask to see
14 the credentials before entrusting your ballot with a person
15 claiming to be authorized to return your ballot to the clerk.

16 Sec. 931. (1) A person who violates ~~any~~ 1 OR MORE of the
17 following subdivisions is guilty of a misdemeanor:

18 (a) A person shall not, either directly or indirectly, give,
19 lend, or promise ~~any money or~~ valuable consideration, to or for
20 any person, as an inducement to influence the manner of voting by
21 a person relative to a candidate or proposition, or as a reward
22 for refraining from voting. ~~As used in this section, "valuable~~
23 ~~consideration" includes any money, gift, prize or chance for a~~
24 ~~prize, fee, loan, office, position, appointment, or employment.~~

25 (b) A person shall not, either before, on, or after ~~any~~ AN
26 election, for the person's own benefit or on behalf of any other

1 person, receive, agree, or contract for ~~any~~ valuable
 2 consideration for ~~any~~ 1 OR MORE of the following:

3 (i) Voting or agreeing to vote, or inducing or attempting to
 4 induce another to vote, at an election or primary election.

5 (ii) Refraining or agreeing to refrain, or inducing or
 6 attempting to induce another to refrain, from voting at an elec-
 7 tion or primary election.

8 (iii) Doing anything prohibited by this act.

9 (iv) Doing, agreeing to do, or having done any campaign
 10 work, electioneering, or soliciting of votes for a question or a
 11 candidate on or before an election or primary election day.

12 (c) A person shall not solicit MONEY OR OTHER PROPERTY from
 13 a candidate for nomination for, or election to, ~~any~~ AN office
 14 described in this act. ~~, any money or other property.~~ This
 15 subdivision ~~shall~~ DOES not apply to requests for contributions
 16 of money by or to an authorized representative of the political
 17 party committee of the organization to which the candidate
 18 belongs. This subdivision ~~shall~~ DOES not apply to ~~any~~ A reg-
 19 ular business transaction between a candidate and any other
 20 person ~~which~~ THAT is not intended for, or connected with, the
 21 securing of votes or the influencing of voters in connection with
 22 the nomination or election.

23 (d) A person shall not, either directly or indirectly, dis-
 24 charge or threaten to discharge an employee of the person for the
 25 purpose of influencing the employee's vote for an election or
 26 primary election.

1 (e) A priest, pastor, curate, or other officer of a
2 religious society shall not for the purpose of influencing a
3 voter at an election or primary election, impose or threaten to
4 impose upon a person a penalty of excommunication, dismissal, or
5 expulsion, or command or advise a person, under pain of religious
6 disapproval.

7 (f) A person shall not, at an election or primary election,
8 falsely impersonate another person, or vote or attempt to vote
9 under the name of another person, or induce or attempt to induce
10 a person to impersonate another person, or to vote or attempt to
11 vote under the name of another person.

12 (g) A person shall not assume a false or fictitious name in
13 order to vote or to offer to vote by that name; enter or cause to
14 be entered upon the registration book in a voting precinct a
15 false or fictitious name; or induce or attempt to induce another
16 person to assume a false or fictitious name in order to vote, or
17 offer to vote, by that name, or enter or cause to be entered upon
18 the registration book of ~~any~~ A voting precinct, a false or fic-
19 titious name.

20 (h) A person who is not a qualified and registered elector
21 shall not ~~wilfully~~ WILLFULLY offer to vote or attempt to vote
22 at a primary election or election sanctioned by the laws of this
23 state. A person shall not aid or counsel a person who is not a
24 qualified elector to vote or offer to vote at the place where the
25 vote is given during an election or primary election.

26 (i) A qualified and registered elector shall not offer to
27 vote or attempt to vote in a voting precinct in which the elector

1 does not reside, except as otherwise provided in this act. A
2 person shall not procure, aid, or counsel another person to go or
3 come into a township, ward, or voting precinct for the purpose of
4 voting at an election or primary election, knowing that the
5 person is not qualified to vote in that township, ward, or voting
6 precinct.

7 (j) A person shall not offer to vote or attempt to vote more
8 than once at the same election either in the same or in another
9 voting precinct. ~~, nor shall a person~~ A PERSON SHALL NOT give
10 2 or more votes folded together.

11 (k) A person shall not hire a motor vehicle or other convey-
12 ance or cause the ~~same to be done~~ HIRING OF A MOTOR VEHICLE OR
13 OTHER CONVEYANCE, for ~~conveying~~ TRANSPORTING voters, other than
14 voters physically unable to walk, to an election or primary
15 election.

16 (l) In a city having an election commission authorized to
17 appoint inspectors of election, failure of an inspector, clerk,
18 or election or primary election official, accepting an appoint-
19 ment as an inspector of election, to report at the polling place
20 designated on election or primary election morning at the time
21 specified, unless excused, is a misdemeanor, punishable by a fine
22 of not more than \$10.00, or imprisonment for not more than 10
23 days, or both. If an inspector, clerk, or election or primary
24 election official notifies the election or primary election com-
25 mission or other officers in charge of elections or primary elec-
26 tions of the inspector's, clerk's, or election or primary
27 election official's inability to serve at the time and place

1 specified, at least 3 days before the election or primary
 2 election, or is excused from duty by the election or primary
 3 election commission, board, or officers in charge of elections or
 4 primary elections for cause shown, then the inspector, clerk, or
 5 election or primary election official shall not be liable for a
 6 fine or imprisonment.

7 (m) A person shall not ~~wilfully~~ WILLFULLY fail to perform
 8 a duty imposed upon that person by this act, or disobey a lawful
 9 instruction or order of the secretary of state as chief state
 10 election officer or of a board of county election commissioners,
 11 board of city election commissioners, or board of inspectors of
 12 election.

13 (n) A delegate or member of a convention shall not solicit a
 14 candidate for nomination before the convention for money, reward,
 15 position, place, or preferment in return for support by the dele-
 16 gate or member in the convention. A candidate or other person
 17 shall not promise or give to a delegate money, reward, position,
 18 place, or preferment in return for support by or vote of the del-
 19 egate in the convention.

20 (o) A person elected a delegate to a convention shall not
 21 accept or receive ~~any money or valuable thing as a~~ considera-
 22 tion for his or her vote as a delegate.

23 (p) A person shall not, while the polls are open ~~, at a~~
 24 ~~polling place~~ on a primary or election day, solicit votes in
 25 ~~the~~ A polling place or within 100 feet from ~~any~~ AN entrance
 26 to the building in which ~~the~~ A polling place is located.

1 (Q) A CITY, TOWNSHIP, OR VILLAGE CLERK SHALL NOT PLACE OR
2 CAUSE TO BE PLACED IN AN ENVELOPE CONTAINING ABSENT VOTER BALLOTS
3 THAT ARE TO BE MAILED TO QUALIFIED ABSENT VOTERS ANY CAMPAIGN
4 LITERATURE OR WRITE-IN STICKERS.

5 (R) ~~(q)~~ A person shall not keep a room or building for the
6 purpose, in whole or in part, of recording or registering bets or
7 wagers, or of selling pools upon the result of a political nomi-
8 nation, appointment, or election. A person shall not wager ~~any~~
9 property, money, or thing of value, or be the custodian of ~~any~~
10 money, property, or thing of value, staked, wagered, or pledged
11 upon the result of a political nomination, appointment, or
12 election.

13 (S) ~~(r)~~ A person shall not plan, organize, or participate
14 in a meeting or a portion of a meeting of more than 2 persons,
15 other than the person's immediate family, at which an absent
16 voter ballot is voted.

17 (T) ~~(s)~~ Except as authorized ~~pursuant to~~ UNDER section
18 764b, a person shall ~~neither~~ NOT return, solicit to return, or
19 agree to return an absent voter ballot to the clerk of a city,
20 township, or village, ~~nor~~ OR have possession of an absent voter
21 ballot mailed or delivered to another person, regardless of
22 whether the ballot has been voted.

23 ~~(t) A person shall not make a false statement in the cer-~~
24 ~~tificate provided in section 764a.~~

25 (2) A person who violates a provision of this act for which
26 a penalty is not otherwise specifically provided in this act, is
27 guilty of a misdemeanor.

1 (3) A person or a person's agent who knowingly makes,
2 publishes, disseminates, circulates, or places before the public,
3 or knowingly causes directly or indirectly to be made, published,
4 disseminated, circulated, or placed before the public, in this
5 state, either orally or in writing, an assertion, representation,
6 or statement of fact concerning a candidate for public office at
7 a primary or general election in this state, ~~which~~ THAT is
8 false, deceptive, scurrilous, or malicious, without the true name
9 of the author being subscribed to the assertion, representation,
10 or statement if written, or announced if unwritten, is guilty of
11 a misdemeanor.

12 (4) AS USED IN THIS SECTION, "VALUABLE CONSIDERATION"
13 INCLUDES, BUT IS NOT LIMITED TO, MONEY, A GIFT, A PRIZE OR CHANCE
14 FOR A PRIZE, A FEE, A LOAN, AN OFFICE, A POSITION, AN APPOINT-
15 MENT, OR EMPLOYMENT.

16 Sec. 942. ~~No prosecution for any~~ AN offense ~~mentioned~~
17 ~~in~~ UNDER this act other than fraudulent registration shall NOT
18 be ~~maintained~~ PROSECUTED unless ~~it shall be~~ THE PROSECUTION
19 IS commenced within ~~1 year~~ 2 YEARS after the date of the regis-
20 tration, primary, or election in connection with which the
21 offense is alleged to have been committed. ~~No prosecution for~~
22 ~~fraudulent~~ FRAUDULENT registration UNDER THIS ACT shall NOT be
23 ~~maintained~~ PROSECUTED unless ~~it shall be~~ THE PROSECUTION IS
24 commenced within ~~2~~ 3 years after the time the offense is
25 alleged to have been committed. ~~Neither the~~ THE complaining
26 witness ~~nor~~ OR any other person who ~~may be~~ IS called to
27 testify in behalf of the people in ~~any such~~ A proceeding UNDER

1 THIS SECTION shall NOT be liable to criminal prosecution under
2 this act for ~~any~~ AN offense in respect to which he ~~shall be~~
3 OR SHE IS examined or to which his OR HER testimony ~~shall~~
4 ~~relate~~ RELATES, except to prosecution for perjury committed in
5 ~~such~~ THE testimony.

6 Section 2. Section 764 of Act No. 116 of the Public Acts of
7 1954, being section 168.764 of the Michigan Compiled Laws, is
8 repealed.