

# HOUSE BILL No. 5074

September 20, 2001, Introduced by Rep. Bishop and referred to the Committee on Redistricting and Elections.

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending sections 9a, 727, 729, 745, 746, and 769 (MCL 168.9a,  
168.727, 168.729, 168.745, 168.746, and 168.769), section 9a as  
added by 1999 PA 219 and sections 727 and 769 as amended by 1995  
PA 261.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 9a. As used in this act: ~~—, "qualified~~

2       (A) "QUALIFIED voter file" means that term as defined in  
3 section 509m.

4       (B) "PROVISIONAL BALLOT" MEANS A BALLOT PROVIDED TO AN INDI-  
5 VIDUAL BY AN ELECTION INSPECTOR ON ELECTION DAY FOR EITHER OF THE  
6 FOLLOWING REASONS:

7       (i) THE INDIVIDUAL'S NAME DOES NOT APPEAR IN THE  
8 REGISTRATION BOOK OR THE INDIVIDUAL IS CHALLENGED AS NOT BEING A

04176'01

GWH

1 QUALIFIED AND REGISTERED VOTER AND IT CANNOT BE IMMEDIATELY  
2 VERIFIED IF THE INDIVIDUAL IS A QUALIFIED AND REGISTERED VOTER.

3 (ii) THE INDIVIDUAL HAS REQUESTED AN ABSENT VOTER BALLOT AND  
4 THERE IS NO VERIFICATION THAT THE INDIVIDUAL HAS VOTED AND  
5 RETURNED THE ABSENT VOTER BALLOT.

6 Sec. 727. (1) An election inspector shall challenge ~~a~~  
7 ~~person~~ AN INDIVIDUAL applying for ballots if the ELECTION  
8 inspector knows or has good reason to suspect THAT the applicant  
9 is not a qualified and registered elector of the precinct, IF THE  
10 APPLICANT'S NAME DOES NOT APPEAR IN THE REGISTRATION BOOK, or if  
11 a challenge appears in connection with the applicant's name in  
12 the registration book. A registered elector of the precinct  
13 present in the polling place may challenge the right of anyone  
14 attempting to vote if the elector knows or has good reason to  
15 suspect that ~~person~~ THE INDIVIDUAL is not a registered elector  
16 in that precinct. An election inspector or other qualified chal-  
17 lenger may challenge the right of ~~a person~~ AN INDIVIDUAL  
18 attempting to vote who has previously applied for an absent voter  
19 ballot and who on election day is claiming to have never received  
20 the absent voter ballot or to have lost or destroyed the absent  
21 voter ballot.

22 (2) Upon a challenge being made under subsection (1), an  
23 election inspector shall immediately do all of the following:

24 (a) Identify ~~pursuant to section~~ AS PROVIDED IN  
25 SECTIONS 745 AND 746 ~~any~~ A ballot voted by the challenged indi-  
26 vidual, if any.

1 (b) Make a written report including all of the following  
2 information:

3 (i) All election disparities or infractions complained of or  
4 believed to have occurred.

5 (ii) The name of the ~~person~~ INDIVIDUAL making the  
6 challenge.

7 (iii) The time of the challenge.

8 (iv) The name, telephone number, and address of the chal-  
9 lenged individual.

10 (v) ~~Any other~~ OTHER information considered appropriate by  
11 the election inspector.

12 (c) Retain the written report created under subdivision (b)  
13 and make it a part of the election record.

14 (3) A challenger shall not make a challenge indiscriminately  
15 and without good cause. A challenger shall not handle the poll  
16 books while observing election procedures or the ballots during  
17 the counting of the ballots. A challenger shall not interfere  
18 with or unduly delay the work of the election inspectors. A  
19 person who challenges a qualified and registered elector of a  
20 voting precinct for the purpose of annoying or delaying voters is  
21 guilty of a misdemeanor.

22 Sec. 729. If ~~any person~~ AN INDIVIDUAL attempting to vote  
23 ~~shall be~~ IS challenged as unqualified OR BECAUSE HIS OR HER  
24 NAME DOES NOT APPEAR IN THE REGISTRATION BOOK, ~~he shall be sworn~~  
25 ~~by~~ 1 of the ELECTION inspectors ~~of election~~ SHALL SWEAR THE  
26 CHALLENGED ELECTOR to truthfully answer all questions asked ~~him~~  
27 THE CHALLENGED ELECTOR concerning his OR HER qualifications as an

1 elector ~~and any~~ OR CONCERNING HIS OR HER REGISTRATION TO VOTE.  
 2 ANY ELECTION inspector or qualified elector at the poll may ques-  
 3 tion ~~said person~~ A CHALLENGED ELECTOR as to ~~such~~ HIS OR HER  
 4 qualifications OR REGISTRATION TO VOTE. If the answer to ~~such~~  
 5 THE questions show that ~~said person is~~ THE CHALLENGED ELECTOR  
 6 MAY BE a qualified AND REGISTERED elector in that precinct, he  
 7 ~~shall be~~ OR SHE IS entitled to receive a PROVISIONAL ballot and  
 8 vote. ~~Should~~ IF the answers show that ~~said person~~ THE CHAL-  
 9 LENGED ELECTOR is not a qualified AND REGISTERED elector at that  
 10 poll, he ~~shall~~ OR SHE IS not ~~be~~ entitled to receive a ballot  
 11 and vote. IF AN INDIVIDUAL IS CHALLENGED AS UNQUALIFIED OR  
 12 UNREGISTERED AFTER HE OR SHE HAS RECEIVED AND VOTED A BALLOT, HE  
 13 OR SHE SHALL BE SWORN AND QUESTIONED AS PROVIDED IN THIS  
 14 SECTION. IF THE ANSWERS SHOW THAT THE CHALLENGED ELECTOR MAY BE  
 15 A QUALIFIED AND REGISTERED ELECTOR IN THAT PRECINCT, THE BALLOT  
 16 SHALL BE PLACED IN A PROVISIONAL BALLOT ENVELOPE AS PROVIDED IN  
 17 SECTION 745. IF THE ANSWERS SHOW THAT THE CHALLENGED ELECTOR IS  
 18 NOT A QUALIFIED AND REGISTERED ELECTOR IN THAT PRECINCT, THE  
 19 BALLOT SHALL BE PLACED IN A PROVISIONAL BALLOT ENVELOPE AND  
 20 MARKED AS "REJECTED AS ILLEGAL". If ~~any one~~ 1 of his OR HER  
 21 answers concerning a material matter ~~shall~~ IS not ~~be~~ true ,  
 22 ~~he shall~~ OR CANNOT BE VERIFIED, THE MATTER SHALL BE REFERRED TO  
 23 THE ATTORNEY GENERAL. THE CHALLENGED ELECTOR, upon conviction,  
 24 ~~be deemed~~ IS guilty of perjury AND SUBJECT TO THE PENALTIES  
 25 UNDER SECTION 936.

26       Sec. 745. ~~Whenever at any election the ballot of any~~  
 27 ~~person~~ IF AN INDIVIDUAL who has been challenged as an

1 unqualified OR UNREGISTERED voter and who has taken the oath  
2 ~~provided by law in such case to be taken shall be received by~~  
3 ~~the inspectors of election, said inspectors shall cause to be~~  
4 ~~plainly endorsed on said ballot~~ UNDER SECTION 729 IS GIVEN AND  
5 VOTES A PROVISIONAL BALLOT, THE ELECTION INSPECTOR WHO RECEIVES  
6 THE PROVISIONAL BALLOT FROM THE VOTER SHALL PLACE THE BALLOT IN A  
7 PROVISIONAL BALLOT ENVELOPE. THE ELECTION INSPECTOR SHALL  
8 PLAINLY ENDORSE ON THE PROVISIONAL BALLOT ENVELOPE, with pencil,  
9 before depositing the ~~same~~ PROVISIONAL BALLOT ENVELOPE in the  
10 ballot box, the number corresponding to the number placed after  
11 ~~such~~ THE voter's name on the poll lists without opening the  
12 ~~same: Provided, That in case a ballot shall be so folded,~~  
13 ~~defaced, printed or prepared that such number cannot be legibly~~  
14 ~~and permanently written on the back thereof, said inspectors~~  
15 ~~shall refuse to accept such~~ PROVISIONAL ballot.

16       Sec. 746. (1) To prevent the identification of ~~said~~ A  
17 PROVISIONAL ballot, except as ~~hereinafter~~ provided IN SECTION  
18 747 for ~~in case of~~ a contested election, the ~~inspectors of~~  
19 election INSPECTOR shall ~~cause to be securely attached to said~~  
20 ~~ballot, with mucilage or other adhesive substance, a slip or~~  
21 ~~piece of blank paper of the same color and appearance, as nearly~~  
22 ~~as may be, as the paper of the ballot, in such manner as to cover~~  
23 ~~and wholly conceal said endorsement but not to injure or deface~~  
24 ~~the same; and if any inspector or other officer of an election~~  
25 ~~shall afterward expose said endorsement or remove the said slip~~  
26 ~~of paper covering the same, or attempt to identify the ballot of~~  
27 ~~any voter, or suffer the same to be done by any other person, he~~

1 ~~shall, on conviction thereof, be deemed guilty of a misdemeanor~~  
2 PLACE THE PROVISIONAL BALLOT IN A PROVISIONAL BALLOT ENVELOPE.

3 (2) AN ELECTION INSPECTOR OR OTHER ELECTION OFFICIAL WHO  
4 REMOVES THE BALLOT FROM THE PROVISIONAL BALLOT ENVELOPE, ATTEMPTS  
5 TO IDENTIFY THE BALLOT OF A VOTER, OR ALLOWS ANOTHER PERSON TO  
6 REMOVE OR ATTEMPT TO IDENTIFY A PROVISIONAL BALLOT IN VIOLATION  
7 OF THIS ACT IS GUILTY OF A MISDEMEANOR.

8 (3) A PROVISIONAL BALLOT SHALL BE PROCESSED IN THE SAME  
9 MANNER AS AN ABSENT VOTER BALLOT, AS PROVIDED IN SECTIONS 766 TO  
10 768.

11 Sec. 769. (1) An absent voter may vote in person within his  
12 or her precinct at an election, notwithstanding that he or she  
13 applies for an absent voter ballot and the ballot is mailed or  
14 otherwise delivered to the absent voter by the clerk. This sub-  
15 section only applies if the absent voter does not vote the absent  
16 voter ballot mailed or otherwise delivered by the clerk.

17 (2) Before voting in person, except as otherwise provided in  
18 this section, the absent voter shall return the absent voter  
19 ballot to the board of election inspectors in his or her  
20 precinct. If an absent voter ballot is returned under this sub-  
21 section, the board of election inspectors shall mark it  
22 "CANCELED" and place it in the regular box with other canceled  
23 ballots.

24 (3) An absent voter who did not receive an absent voter  
25 ballot that he or she applied for or lost or destroyed an absent  
26 voter ballot he or she received, and who desires to vote in  
27 person in his or her precinct on election day, shall sign ~~an~~

1 ~~affidavit~~ A SWORN STATEMENT to that effect before an election  
2 inspector and be allowed to vote ~~as otherwise provided in this~~  
3 ~~act. However, a voter being allowed to vote under this subsec-~~  
4 ~~tion is subject to challenge~~ A PROVISIONAL BALLOT as provided in  
5 ~~section 727~~ SECTIONS 727 AND 729.

6 (4) A person who votes at an election both in person and by  
7 means of an absent voter ballot or a person who attempts to vote  
8 both in person and by means of an absent voter ballot is guilty  
9 of a felony.

10 (5) An election official who becomes aware of a person who  
11 votes or attempts to vote both in person and by means of an  
12 absent voter ballot shall report that information to the prose-  
13 cuting attorney for that county and to the secretary of state.