

HOUSE BILL No. 5086

September 25, 2003, Introduced by Reps. Gaffney and Ward and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 759 and 759a (MCL 168.759 and 168.759a),
section 759 as amended by 1995 PA 261 and section 759a as amended
by 1999 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 759. (1) ~~At~~ **Except as provided in subsection (8), at**
2 any time during the 75 days before a primary or special primary,
3 but not later than 2 p.m. of the Saturday immediately before the
4 primary or special primary, an elector who qualifies to vote as
5 an absent voter, as defined in section 758, may apply for an
6 absent voter ballot. The elector shall apply in person or by
7 mail with the clerk of the township, city, or village in which
8 the elector is registered. An application received before a
9 primary or special primary may be for either that primary only,

1 or for that primary and the election that follows.

2 (2) Except as otherwise provided in subsection (1), at any
3 time during the 75 days before an election, but not later than 2
4 p.m. of the Saturday before the election, an elector who
5 qualifies to vote as an absent voter, as defined in section 758,
6 may apply for an absent voter ballot. The elector shall apply in
7 person or by mail with the clerk of the township, city, or
8 village in which the voter is registered.

9 (3) An application for an absent voter ballot under this
10 section may be made in any of the following ways:

11 (a) By a written request signed by the ~~voter~~ **elector**
12 stating the statutory grounds for making the application.

13 (b) On an absent voter ballot application form provided for
14 that purpose by the clerk of the city, township, or village.

15 (c) On a federal postcard application.

16 (4) An applicant for an absent voter ballot shall sign the
17 application. A clerk or assistant clerk shall not deliver an
18 absent voter ballot to an applicant who does not sign the
19 application. ~~A person other~~ **Other** than the applicant; a member
20 of the applicant's immediate family; a person residing in the
21 applicant's household; a person whose job normally includes the
22 handling of mail, but only during the course of his or her
23 employment; a registered elector requested by the applicant **to**
24 **return the application**; or a clerk, assistant of the clerk, or
25 other authorized election official, **a person** shall not be in
26 possession of a signed absent voter ballot application. A
27 registered elector who is requested by the applicant to return

1 his or her absent voter ballot application shall sign the
 2 certificate on the absent voter ballot application.

3 (5) The clerk of the city, township, or village shall have
 4 absent voter ballot application forms available in the office of
 5 the clerk at all times and shall furnish an absent voter ballot
 6 application form to anyone upon a verbal or written request. The
 7 absent voter ballot application shall be in substantially the
 8 following form:

9 "Application for absent voter ballot for:

10 [] The primary or special primary election to be held on —
 11, 19..... _____

12 (Date)

13 [] The election to be held on, 19.....
 14 _____

15 (Date)

16 (Check applicable election or elections)

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

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

25 [] I expect to be absent from the community in which I am
 26 registered for the entire time the polls are open on election

1 day.

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

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

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

8 ☐ I am 60 years of age or older.

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

11 (Check applicable reason)

12 Send absent voter ballot to me at:

13
14 (Street No. or R.R.)

15
16 (Post Office) (State) (Zip Code)

17 My registered address.....
18 (Street No. or R.R.)

19
20 (Post Office) (State) (Zip

21 Code)

22 Date.....

23 I declare that the statements in this absent voter ballot
24 application are true.

25
26 (Signature)

27 WARNING

28 A person making a false statement in this absent voter ballot
29 application is guilty of a misdemeanor. It is a violation of
30 Michigan election law for a person other than those listed in the

Ballot Application

I certify that my name is, my address is, and my date of birth is; that I am delivering the absent voter ballot application of at his or her 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) _____
 (6) The following instructions for an applicant for an absent voter ballot shall be included with each application furnished an applicant:

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature

1 must appear on the application or you will not receive an absent
2 voter ballot.

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

5 (a) Place the application in an envelope addressed to the
6 appropriate clerk and place the necessary postage upon the return
7 envelope and deposit it in the United States mail or with another
8 public postal service, express mail service, parcel post service,
9 or common carrier.

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

12 (c) In either (a) or (b), a member of the immediate family of
13 the voter including a father-in-law, mother-in-law,
14 brother-in-law, sister-in-law, son-in-law, daughter-in-law,
15 grandparent, or grandchild or a person residing in the voter's
16 household may mail or deliver the application to the clerk for
17 the applicant.

18 (d) ~~In the event~~ If an applicant cannot return the
19 application in any of the above methods, the applicant may select
20 any registered elector to return the application. The person
21 returning the application must sign and return the certificate at
22 the bottom of the application.

23 (7) A person who prints and distributes absent voter ballot
24 applications shall print on the application the warning,
25 certificate of authorized registered elector returning absent
26 voter ballot application, and instructions required by this
27 section.

1 (8) A qualified elector who applies to vote as an absent
 2 voter by federal postcard application is eligible to vote as an
 3 absent voter in any election occurring in the calendar year in
 4 which the federal postcard application is received by the city,
 5 village, or township clerk, but not in an election for which the
 6 application is received by the clerk after 2 p.m. of the Saturday
 7 before the election. Notwithstanding another provision of this
 8 act to the contrary, as soon as absent voter ballots are
 9 available before an election, the city, village, or township
 10 clerk shall forward the absent voter ballot to an absent voter
 11 who is eligible to vote as an absent voter in that calendar year
 12 under this subsection. The city, village, or township clerk
 13 shall comply with all other provisions of this act regarding the
 14 handling of absent voter ballots.

15 (9) ~~—(8)—~~ A person who makes a false statement in an absent
 16 voter ballot application is guilty of a misdemeanor. A person
 17 who forges a signature on an absent voter ballot application is
 18 guilty of a felony. A person who is not authorized in this act
 19 and who both distributes absent voter ballot applications to
 20 absent voters and returns those absent voter ballot applications
 21 to a clerk or assistant of the clerk is guilty of a misdemeanor.

22 Sec. 759a. (1) Except as provided in subsection ~~—(5)—~~ **(4)**,
 23 each of the following persons who is a qualified elector of a
 24 city, **village**, or township in this state and who is not a
 25 registered voter may apply for an absent voter ballot ~~—pursuant~~
 26 ~~to~~ **in the manner described in** section 504:

27 (a) A civilian employee of the armed services outside of the

1 United States.

2 (b) A member of the armed services outside of the United
3 States.

4 (c) A citizen of the United States temporarily residing
5 outside the territorial limits of the United States.

6 (d) A citizen of the United States residing in the District
7 of Columbia.

8 (e) A spouse or dependent of a person described in
9 subdivisions (a) through (d) who is a citizen of the United
10 States and who is accompanying that person, ~~notwithstanding~~
11 ~~that~~ **even though** the spouse or dependent is not a qualified
12 elector of a city, **village**, or township of this state, ~~as long~~
13 ~~as~~ **if** that spouse or dependent is not a qualified and registered
14 elector anywhere else in the United States.

15 ~~(2) A citizen described in subsection (1) other than a~~
16 ~~person described in subsection (1)(b) or a spouse or dependent of~~
17 ~~such a person described in subsection (1)(b) shall include, with~~
18 ~~an application for an absent voter ballot or registration, an~~
19 ~~affidavit in a form and manner approved by the state director of~~
20 ~~elections stating either of the following:~~

21 ~~—— (a) His or her qualifications as an elector at the time he or~~
22 ~~she departed from the United States or began residing in the~~
23 ~~District of Columbia and affirming that he or she has not~~
24 ~~relinquished his or her citizenship or established residence for~~
25 ~~voting in any other place.~~

26 ~~—— (b) That he or she is a spouse or dependent of a person~~
27 ~~described in subsection (1)(a), (c), or (d), that he or she meets~~

1 ~~the qualifications as an elector other than residency in this~~
2 ~~state, and that he or she has not established a residence for~~
3 ~~voting in any other place.~~

4 (2) ~~-(3)-~~ Upon receipt of an application under this section
5 that complies with this act, a city, **village**, or township clerk
6 shall forward to the applicant the absent voter ballots
7 requested, the forms necessary for registration, and instructions
8 for completing the forms. If the ballots are not yet available
9 at the time of receipt of the application, the clerk shall
10 immediately forward to the applicant the registration forms and
11 instructions, and forward the ballots as soon as they are
12 available. If the ballots and registration forms are received
13 before the close of the polls on election day and if the
14 registration complies with the requirements of this act, the
15 absent voter ballots shall be delivered to the proper election
16 board to be voted. If the registration does not comply with the
17 requirements of this act, the clerk shall retain the absent voter
18 ballots until the expiration of the time that the voted ballots
19 must be kept and shall then destroy the ballots without opening
20 the envelope. The clerk may retain registration forms completed
21 under this section in a separate file. The address in this state
22 shown on a registration form is the residence of the registrant.

23 (3) ~~-(4)-~~ The size of a precinct shall not be determined by
24 registration forms completed under this section.

25 (4) ~~-(5)-~~ A person described in subsection (1)(a) and (b) and
26 a spouse or dependent of that person who is accompanying that
27 person is registered to vote in a special primary or special

1 general election if he or she was registered to vote under this
2 section in the primary or general election immediately
3 ~~preceding~~ **before** the special primary or special general
4 election. The city, **village**, or township clerk who received that
5 person's completed registration forms in the primary or general
6 election shall forward to that person at his or her last known
7 address an absent voter ballot for the special primary or special
8 general election immediately upon the clerk's receipt of the
9 absent voter ballots for the special primary or special general
10 election.

11 (5) ~~-(6) Pursuant to~~ **Under** the uniformed and overseas
12 citizens absentee voting act, Public Law 99-410, 100 Stat. 924,
13 the state director of elections shall approve a ballot form and
14 registration procedures for electors in the armed services and
15 electors outside the United States, including the spouses and
16 dependents accompanying those electors.

17 (6) ~~-(7)-~~ As used in this section, "armed services" means any
18 of the following:

19 (a) The United States army, navy, air force, marine corps, or
20 coast guard.

21 (b) The United States merchant ~~marines~~ **marine**.

22 (c) A reserve component of an armed service listed in
23 subdivision (a) or (b).

24 (d) The Michigan national guard as defined in section 105 of
25 the Michigan military act, 1967 PA 150, MCL 32.505.