

# HOUSE BILL No. 4333

February 17, 2005, Introduced by Reps. Bieda, Vagnozzi, Alma Smith, Leland, Adamini, Miller, Condino, Wojno, Donigan, Tobocman, Rocca, Accavitti, Lipsey, Anderson, Sak, Plakas, Clack, Dillon, Lemmons, Jr., Gillard, Byrnes, Mayes, Hunter, Meisner, Gleason, Kolb, Byrum, Wenke, Stakoe, Gaffney, Hildenbrand, Waters, Hood, Murphy, Whitmer, Lemmons, III, Brown, Nofs, Stewart, Hopgood, Virgil Smith, Kathleen Law, Zelenko, Angerer, Espinoza, Gonzales, Sheltroun, Spade, Clemente, Cushingberry, McConico, McDowell, Acciavatti, Kehrl, Phillips, Vander Veen, Newell, Farrah and Shaffer and referred to the Committee on House Oversight, Elections, and Ethics.

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending sections 758, 759, and 759b (MCL 168.758, 168.759, and 168.759b), section 758 as amended by 1996 PA 207 and section 759 as amended by 1995 PA 261.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 758. (1) ~~For the purposes of~~ **AS USED IN** this act, "absent  
2 voter" means a qualified and registered elector who ~~meets 1 or more~~  
3 ~~of the following requirements:~~

4       ~~— (a) On account of physical disability, cannot without~~  
5 ~~another's assistance attend~~ **VOTES WITHOUT ATTENDING** the polls on  
6 the day of an election.

7       ~~— (b) On account of the tenets of his or her religion, cannot~~  
8 ~~attend the polls on the day of election.~~

9       ~~— (c) Cannot attend the polls on the day of an election in the~~

~~precinct in which he or she resides because of being an election  
precinct inspector in another precinct.~~

~~—— (d) Is 60 years of age or older.~~

~~—— (e) Is absent or expects to be absent from the township or  
city in which he or she resides during the entire period the polls  
are open for voting on the day of an election.~~

~~—— (f) Cannot attend the polls on election day because of being  
confined in jail awaiting arraignment or trial.~~

~~—— (2) Subsection (1) does not apply to **ABSENT VOTER DOES NOT**~~

**INCLUDE** a person who has moved outside of this state, regardless of  
length of his or her residence outside of this state, and who no  
longer maintains an actual residence in this state. The storage of  
personal effects or household goods, the ownership of property that  
is rented or leased to others, or occasional brief visits to a  
former domicile in this state while residing outside of this state  
for most of the year ~~does~~ **DO** not constitute a residence for voting  
purposes in this state, except for each of the following:

(a) A person described in section 1 of article II of the state  
constitution of 1963 and statutes enacted under that section.

(b) A person described in section 759a.

Sec. 759. (1) At any time during the 75 days before a primary  
**ELECTION** or special primary **ELECTION**, but not later than 2 p.m. of  
the Saturday immediately before the primary **ELECTION** or special  
primary **ELECTION**, an elector who ~~qualifies~~ **WANTS** to vote as an  
absent voter ~~—, as defined in section 758,~~ may apply for an absent  
voter ballot. The elector shall apply in person or by mail with the  
clerk of the township, city, or village in which the elector is

1 registered. An application received before a primary **ELECTION** or  
2 special primary **ELECTION** may be for either that primary **ELECTION**  
3 only, or for that primary **ELECTION** and the election that follows.

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

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

13 (a) By a written request signed by the ~~voter stating the~~  
14 ~~statutory grounds for making the application~~ **ELECTOR**.

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

17 (c) On a federal postcard application.

18 (4) An applicant for an absent voter ballot shall sign the  
19 application. A clerk or assistant clerk shall not deliver an absent  
20 voter ballot to an applicant who does not sign the application. A  
21 person ~~other than~~ **SHALL NOT BE IN POSSESSION OF A SIGNED ABSENT**  
22 **VOTER BALLOT APPLICATION EXCEPT FOR** the applicant; a member of the  
23 applicant's immediate family; a person residing in the applicant's  
24 household; a person whose job normally includes the handling of  
25 mail, but only during the course of his or her employment; a  
26 registered elector requested by the applicant **TO RETURN THE**  
27 **APPLICATION**; or a clerk, assistant of the clerk, or other

1 authorized election official. ~~shall not be in possession of a~~  
 2 ~~signed absent voter ballot application.~~ A registered elector who  
 3 is requested by the applicant to return his or her absent voter  
 4 ballot application shall sign the certificate on the absent voter  
 5 ballot application.

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

12 "Application for absent voter ballot for:

13 ☐ The primary **ELECTION** or special primary election to be held  
 14 on ~~....., 19...~~ \_\_\_\_\_ [DATE].

15 ☐ The election to be held on ~~....., 19...~~ \_\_\_\_\_  
 16 [DATE].

17 (Check applicable election or elections)

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

24 ~~\_\_\_\_\_ The statutory grounds on which I have 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 day.~~

27 ~~\_\_\_\_\_ ☐ I am physically unable to attend the polls without the~~

1 ~~assistance of another.~~

2 ~~—— [ ] I cannot attend the polls because of the tenets of my~~  
3 ~~religion.~~

4 ~~—— [ ] I have been appointed an election preeinct inspector in a~~  
5 ~~preeinct other than the preeinct where I reside.~~

6 ~~—— [ ] I am 60 years of age or older.~~

7 ~~—— [ ] I cannot attend the polls because I am confined to jail~~  
8 ~~awaiting arraignment or trial.~~

9 ~~—— (Check applicable reason)~~

10 Send absent voter ballot to me at:

11 .....

12 (Street No. or R.R.)

13 .....

14 (Post Office) (State) (ZIP CODE)

15 My registered address.....

16 (Street No. or R.R.)

17 .....

18 (Post Office) (State) (ZIP CODE)

19 Date .....

20 I ~~declare~~ **CERTIFY** that the statements in this absent voter  
21 ballot application are true.

22 .....

23 (Signature)

24 WARNING

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

1 instructions to return, offer to return, agree to return, or  
 2 solicit to return your absent voter ballot application to the  
 3 clerk. An assistant authorized by the clerk who receives absent  
 4 voter ballot applications at a location other than the office of  
 5 the clerk must have credentials signed by the clerk. Ask to see his  
 6 or her credentials before entrusting your application with a person  
 7 claiming to have the clerk's authorization to return your  
 8 application.

9 Certificate of Authorized Registered

10 Elector Returning Absent Voter

11 Ballot Application

12 I certify that my name is ....., my address is  
 13 ....., and my date of birth is .....; that I  
 14 am delivering the absent voter ballot application of  
 15 ..... at his or her request; that I did not solicit  
 16 or request to return the application; that I have not made any  
 17 markings on the application; that I have not altered the  
 18 application in any way; that I have not influenced the applicant;  
 19 and that I am aware that a false statement in this certificate is a  
 20 violation of Michigan election law.

21 \_\_\_\_\_

22 (Date)

(Signature)"

23 (6) The following instructions for an applicant for an absent  
 24 voter ballot shall be included with each application furnished an  
 25 applicant:

26 INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

1 Step 1. After completely filling out the application, sign and  
2 date the application in the place designated. Your signature must  
3 appear on the application or you will not receive an absent voter  
4 ballot.

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

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

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

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

27 (8) A person who makes a false statement in an absent voter

1 ballot application is guilty of a misdemeanor. A person who forges  
2 a signature on an absent voter ballot application is guilty of a  
3 felony. A person who is not authorized in this act and who both  
4 distributes absent voter ballot applications to absent voters and  
5 returns those absent voter ballot applications to a clerk or  
6 assistant of the clerk is guilty of a misdemeanor.

7       Sec. 759b. (1) ~~Any~~ A registered elector may apply for **AN**  
8 absent voter ~~ballots~~ **BALLOT** at any time ~~prior to~~ **BEFORE** 4 p.m.  
9 on election day if ~~he shall have become physically disabled or~~  
10 ~~shall be absent from the city or township because of sickness or~~  
11 ~~death in the family which~~ **AN EVENT** has occurred at a time ~~which~~  
12 ~~has~~ **THAT** made it impossible to apply for **AN** absent voter ~~ballots~~  
13 **BALLOT** by the statutory deadline. The application shall be called  
14 an emergency absent voter **BALLOT** application.

15       (2) Emergency absent voter **BALLOT** applications may be made by  
16 letter or on a form **PRESCRIBED BY THE SECRETARY OF STATE AND**  
17 provided by the clerk. The application shall set forth that the  
18 voter is qualified to vote in the election ~~, stating the statutory~~  
19 ~~reason for applying for an emergency absent voter ballot~~ and that  
20 ~~the reason for applying after the statutory deadline~~ **AN EVENT**  
21 occurred at such a time to make it impossible to file an  
22 application for **AN** absent voter ~~ballots~~ **BALLOT** by the statutory  
23 deadline. **THE SECRETARY OF STATE SHALL PRESCRIBE A STANDARD**  
24 **EMERGENCY ABSENT VOTER BALLOT APPLICATION FORM, INCLUDING THE SIZE**  
25 **OF THE FORM AND THE COLOR OF PAPER UPON WHICH A FORM IS PRINTED.**

26       (3) ~~Any~~ A person intentionally making a false statement in  
27 ~~such~~ **AN EMERGENCY ABSENT VOTER BALLOT** application is guilty of a



1 felony. ~~Any~~ A person aiding or abetting ~~any~~ ANOTHER person to  
2 make a false statement ~~on such~~ IN AN EMERGENCY ABSENT VOTER  
3 BALLOT application is guilty of a felony.

4 (4) Upon receipt by the clerk of a valid application for an  
5 emergency absent voter ballot, the clerk may deliver the ~~ballots~~  
6 ABSENT VOTER BALLOT to the applicant in person, through a deputy or  
7 an election assistant, or ~~he may deliver them~~ at his OR HER  
8 office to a person named by the applicant in the EMERGENCY ABSENT  
9 VOTER BALLOT application. The ABSENT voter may return the ~~ballots~~  
10 ABSENT VOTER BALLOT to the clerk ~~in the sealed envelope provided~~  
11 ~~therefor~~ in any manner. ~~he sees fit. To~~ HOWEVER, TO be valid,  
12 ~~ballots must be returned~~ THE ABSENT VOTER SHALL RETURN THE ABSENT  
13 VOTER BALLOT to the clerk IN THE SEALED ENVELOPE PROVIDED FOR THAT  
14 REASON AND in time to be delivered to the polls ~~prior to~~ BEFORE 8  
15 p.m. on election day.