

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5061

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 761, 813, and 829 (MCL 168.761, 168.813, and
168.829), section 761 as amended by 2005 PA 71 and sections 813
and 829 as added by 2004 PA 92, and by adding section 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 38. (1) THE SECRETARY OF STATE SHALL DEVELOP A POSTER
2 THAT EXPLAINS BALLOT COACHING AND THAT INDICATES THAT BALLOT
3 COACHING IS PROHIBITED.

4 (2) THE SECRETARY OF STATE SHALL PROVIDE TO EACH RESIDENTIAL
5 CARE FACILITY IN THIS STATE AT LEAST 1 POSTER AS DESCRIBED IN
6 SUBSECTION (1).

7 (3) FOR THE PERIOD BEGINNING 45 DAYS BEFORE EACH ELECTION
8 AND CONTINUING THROUGH ELECTION DAY, THE OWNER, OPERATOR, OR

1 FACILITY DIRECTOR OF A RESIDENTIAL CARE FACILITY SHALL DISPLAY
2 THE POSTER PROVIDED BY THE SECRETARY OF STATE IN A PUBLIC AREA IN
3 THE RESIDENTIAL CARE FACILITY.

4 (4) AS USED IN THIS SECTION:

5 (A) "HOME FOR THE AGED" MEANS THAT TERM AS DEFINED IN
6 SECTION 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
7 333.20106.

8 (B) "NURSING HOME" MEANS THAT TERM AS DEFINED IN SECTION
9 20109 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20109.

10 (C) "RESIDENTIAL CARE FACILITY" MEANS BOTH OF THE FOLLOWING:

11 (i) HOME FOR THE AGED.

12 (ii) NURSING HOME.

13 Sec. 761. (1) ~~If~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
14 SUBSECTION, IF the clerk of a city, township, or village receives
15 an application for an absent voter ballot from a person
16 registered to vote in that city, township, or village and if the
17 signature on the application agrees with the signature for the
18 person contained in the qualified voter file or on the
19 registration card as required in subsection (2), the clerk
20 immediately upon receipt of the application or, if the
21 application is received before the printing of the absent voter
22 ballots, as soon as the ballots are received by the clerk, shall
23 forward by mail, postage prepaid, or shall deliver personally 1
24 of the ballots or set of ballots if there is more than 1 kind of
25 ballot to be voted to the applicant. ~~Absent~~ SUBJECT TO THE
26 IDENTIFICATION REQUIREMENT IN SUBSECTION (6), ABSENT voter
27 ballots may be delivered to an applicant in person at the office

1 of the clerk. IF THE CLERK OF A CITY, TOWNSHIP, OR VILLAGE
2 RECEIVES AN ABSENT VOTER BALLOT APPLICATION FROM A PERSON
3 REGISTERED TO VOTE IN THAT CITY, TOWNSHIP, OR VILLAGE AND THE
4 PERSON INDICATES ON THE ABSENT VOTER BALLOT APPLICATION THAT HE
5 OR SHE IS NOT A CITIZEN OF THE UNITED STATES, AN ABSENT VOTER
6 BALLOT SHALL NOT BE ISSUED TO THAT PERSON. IF THE CLERK OF A
7 CITY, TOWNSHIP, OR VILLAGE RECEIVES AN ABSENT VOTER BALLOT
8 APPLICATION FROM A PERSON REGISTERED TO VOTE IN THAT CITY,
9 TOWNSHIP, OR VILLAGE AND THE PERSON DOES NOT ANSWER THE
10 CITIZENSHIP QUESTION ON THE ABSENT VOTER BALLOT APPLICATION, THE
11 CLERK SHALL ISSUE AN ABSENT VOTER BALLOT TO THAT PERSON, BUT THAT
12 ABSENT VOTER BALLOT SHALL NOT BE COUNTED ON ELECTION DAY UNLESS
13 THE PERSON ANSWERS THE CITIZENSHIP QUESTION IN WRITING TO THE
14 CLERK BEFORE THE POLLS CLOSE ON ELECTION DAY. THE CLERK OF THE
15 CITY, TOWNSHIP, OR VILLAGE SHALL INCLUDE WITH AN ABSENT VOTER
16 BALLOT ISSUED TO A PERSON WHO DID NOT ANSWER THE CITIZENSHIP
17 QUESTION ON HIS OR HER ABSENT VOTER BALLOT APPLICATION A NOTICE
18 THAT PROMINENTLY STATES THAT THE PERSON DID NOT ANSWER THE
19 CITIZENSHIP QUESTION ON HIS OR HER ABSENT VOTER BALLOT
20 APPLICATION AND THAT HIS OR HER ABSENT VOTER BALLOT WILL NOT BE
21 COUNTED ON ELECTION DAY UNLESS HE OR SHE ANSWERS THE CITIZENSHIP
22 QUESTION IN WRITING TO THE CLERK IN THE MANNER PROVIDED IN THE
23 NOTICE BEFORE THE POLLS CLOSE ON ELECTION DAY. THE SECRETARY OF
24 STATE SHALL PREPARE AND PROVIDE COPIES OF THE NOTICE REQUIRED
25 UNDER THIS SUBSECTION TO EACH CITY, TOWNSHIP, AND VILLAGE CLERK.

26 (2) The qualified voter file shall be used to determine the
27 genuineness of a signature on an application for an absent voter

1 ballot. Signature comparisons shall be made with the digitized
2 signature in the qualified voter file. If the qualified voter
3 file does not contain a digitized signature of an elector, or is
4 not accessible to the clerk, the city or township clerk shall
5 compare the signature appearing on the application for an absent
6 voter ballot to the signature contained on the master card.

7 (3) Notwithstanding section 759, providing that no absent
8 voter applications shall be received by the clerk after 2 p.m. on
9 the Saturday before the election, **AND SUBJECT TO THE**

10 **IDENTIFICATION REQUIREMENT IN SUBSECTION (6)**, a person qualified
11 to vote as an absent voter may apply in person at the clerk's
12 office before 4 p.m. on a day ~~preceding~~ **BEFORE** the election
13 except Sunday or a legal holiday to vote as an absent voter. ~~The~~
14 **SUBJECT TO SUBSECTION (1), THE** applicant shall receive his or her
15 absent voter ballot and vote the ballot in the clerk's office.

16 All other absent voter ballots, except ballots delivered pursuant
17 to an emergency absent voter ballot application under section
18 759b, shall be mailed or delivered to the registration address of
19 the applicant unless the application requests delivery to an
20 address outside the city, village, or township or to a hospital
21 or similar institution, in which case the absent voter ballots
22 shall be mailed or delivered to the address given in the
23 application. However, a clerk may mail or deliver an absent voter
24 ballot, upon request of the absent voter, to a post office box if
25 the post office box is where the absent voter normally receives
26 personal mail and the absent voter does not receive mail at his
27 or her registration address.

BY THE CLERK

Street Address or R.R.

County

Ward	Precinct	Date of Election
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21 I assert that I am a qualified and registered elector of the
22 city, township, or village named above. I am voting as an absent
23 voter in conformity with state election law. Unless otherwise
24 indicated below, I personally marked the ballot enclosed in this
25 envelope without exhibiting it to any other person.

STM

5 The above form must be signed or your vote will not be counted.
6 AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY
7 OF A MISDEMEANOR.

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TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
BY ANOTHER PERSON

11 I assisted the above named absent voter who is disabled or
12 otherwise unable to mark the ballot in marking his or her absent
13 voter ballot pursuant to his or her directions. The absent voter
14 ballot was inserted in the return envelope without being
15 exhibited to any other person.

16			
17	Signature of Person	Street Address	City, Twp., or
18	Assisting Voter	or R.R.	Village
19			
20	Printed Name of Person Assisting Voter		

21 A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A
22 FALSE STATEMENT IS GUILTY OF A FELONY.

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23 =====
24 WARNING

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25 PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER
26 BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER;
27 A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY

1 OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED
2 BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT
3 IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A
4 PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE,
5 OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR
6 HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER
7 AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR
8 SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT
9 VOTER BALLOT IS GUILTY OF A FELONY.

10 (5) An absent voter who knowingly makes a false statement on
11 the absent voter ballot return envelope is guilty of a
12 misdemeanor. A person who assists an absent voter and who
13 knowingly makes a false statement on the absent voter ballot
14 return envelope is guilty of a felony.

15 (6) IF AN ELECTOR OBTAINS HIS OR HER ABSENT VOTER BALLOT IN
16 PERSON FROM THE CLERK OF THE CITY, TOWNSHIP, OR VILLAGE IN WHICH
17 HE OR SHE IS REGISTERED, THE CLERK OF THE CITY, TOWNSHIP, OR
18 VILLAGE SHALL NOT PROVIDE AN ABSENT VOTER BALLOT TO THAT ELECTOR
19 UNTIL THE ELECTOR IDENTIFIES HIMSELF OR HERSELF TO THE CLERK BY
20 PRESENTING AN OFFICIAL STATE IDENTIFICATION CARD ISSUED TO THAT
21 ELECTOR UNDER 1972 PA 222, MCL 28.291 TO 28.300, AN OPERATOR'S OR
22 CHAUFFEUR'S LICENSE ISSUED TO THAT ELECTOR UNDER THE MICHIGAN
23 VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923, OR OTHER
24 GENERALLY RECOGNIZED PICTURE IDENTIFICATION CARD. IF AN ELECTOR
25 DOES NOT HAVE AN OFFICIAL STATE IDENTIFICATION CARD, OPERATOR'S
26 OR CHAUFFEUR'S LICENSE, OR OTHER GENERALLY RECOGNIZED PICTURE
27 IDENTIFICATION CARD, THE ELECTOR MAY SIGN AN AFFIDAVIT TO THAT

1 EFFECT BEFORE THE CLERK OF THE CITY, TOWNSHIP, OR VILLAGE AND BE
2 ALLOWED TO OBTAIN HIS OR HER ABSENT VOTER BALLOT IN PERSON FROM
3 THE CLERK. THE CLERK OF THE CITY, VILLAGE, OR TOWNSHIP SHALL
4 INDICATE TO EACH ELECTOR WHO OBTAINS HIS OR HER ABSENT VOTER
5 BALLOT IN PERSON FROM THE CLERK THAT THE ELECTOR MAY SIGN AN
6 AFFIDAVIT INDICATING THAT THE ELECTOR DOES NOT HAVE AN OFFICIAL
7 STATE IDENTIFICATION CARD, OPERATOR'S OR CHAUFFEUR'S LICENSE, OR
8 OTHER GENERALLY RECOGNIZED PICTURE IDENTIFICATION CARD IN ORDER
9 TO OBTAIN HIS OR HER ABSENT VOTER BALLOT IN PERSON FROM THE
10 CLERK. HOWEVER, IF AN ELECTOR OBTAINS HIS OR HER ABSENT VOTER
11 BALLOT IN PERSON FROM THE CLERK AND VOTES BY ABSENT VOTER BALLOT
12 WITHOUT PROVIDING THE IDENTIFICATION REQUIRED UNDER THIS
13 SUBSECTION, THE ABSENT VOTER BALLOT OF THAT ELECTOR SHALL BE
14 PREPARED AS A CHALLENGED BALLOT AS PROVIDED IN SECTION 727.

15 Sec. 813. (1) Within 6 days after ~~the~~~~AN~~ election, for each
16 provisional ballot that was placed in a provisional ballot return
17 envelope, the city or township clerk shall determine whether the
18 individual voting the provisional ballot was eligible to vote a
19 ballot and whether to tabulate the provisional ballot. In making
20 this determination, the city or township clerk shall not open the
21 provisional ballot return envelope. A provisional ballot shall
22 only be tabulated if a valid voter registration record for the
23 elector is located or if the identity and residence of the
24 elector is established using a Michigan operator's license,
25 chauffeur's license, personal identification card, other
26 government issued photo identification card, or a photo
27 identification card issued by an institution of higher education

1 in this state described in section 6 of article VIII of the state
2 constitution of 1963 or a junior college or community college
3 established under section 7 of article VIII of the state
4 constitution of 1963 along with a document to establish the
5 voter's current residence address as provided in section 523a(5).
6 Before the provisional ballot is tabulated, election officials
7 shall process the ballot as a challenged ballot under sections
8 745 and 746.

9 (2) Within 7 days after ~~the~~**AN** election, but sooner if
10 practicable, the city or township clerk shall transmit the
11 results of provisional ballots tabulated after the election to
12 the board of county canvassers. The results shall be transmitted
13 in a form prescribed by the secretary of state.

14 (3) Within 7 days after ~~the~~**AN** election, the city or
15 township clerk shall transmit to the county clerk a provisional
16 ballot report for each precinct in the jurisdiction. The report
17 shall include for each precinct the number of provisional ballots
18 issued, the number of provisional ballots tabulated on election
19 day, the number of provisional ballots forwarded to the clerk to
20 be determined after the election, the number of provisional
21 ballots tabulated by the clerk after election day, and any
22 additional information concerning provisional ballots as required
23 by the secretary of state.

24 **(4) WITHIN 7 DAYS AFTER AN ELECTION, THE CITY OR TOWNSHIP**
25 **CLERK SHALL TRANSMIT TO THE COUNTY CLERK AN AFFIDAVIT REPORT THAT**
26 **INCLUDES THE NUMBER OF AFFIDAVITS SIGNED BY VOTERS UNDER SECTION**
27 **523(1). THE AFFIDAVIT REPORT SHALL BE TRANSMITTED TO THE COUNTY**

House Bill No. 5061 as amended June 12, 2012

1 **CLERK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE.**

2 Sec. 829. (1) The board of county canvassers shall include
3 the results of the tabulated provisional ballots in the canvass
4 of the election following procedures prescribed by the secretary
5 of state designed to maintain the secrecy of the ballot.

6 (2) Within 14 days after a primary or election, the county
7 clerk shall transmit a county provisional ballot report to the
8 secretary of state. The county provisional ballot report shall be
9 in a manner prescribed by the secretary of state. After the
10 secretary of state receives a county provisional ballot report,
11 the county provisional ballot report shall be immediately
12 available for public inspection.

13 (3) **WITHIN 14 DAYS AFTER AN ELECTION, THE COUNTY CLERK SHALL**
14 **TRANSMIT A COUNTY AFFIDAVIT REPORT TO THE SECRETARY OF STATE. THE**
15 **COUNTY AFFIDAVIT REPORT SHALL INCLUDE THE NUMBER OF AFFIDAVITS**
16 **SIGNED BY VOTERS UNDER SECTION 523(1). THE COUNTY AFFIDAVIT**
17 **REPORT SHALL BE TRANSMITTED IN A FORM PRESCRIBED BY THE SECRETARY**
18 **OF STATE. AFTER THE SECRETARY OF STATE RECEIVES THE COUNTY**
19 **AFFIDAVIT REPORT FROM THE COUNTY CLERK, THE COUNTY AFFIDAVIT**
20 **REPORT SHALL IMMEDIATELY BE AVAILABLE FOR PUBLIC INSPECTION.**

<<Enacting section 1. This amendatory act takes effect
August 15, 2012.>>