

# HOUSE BILL No. 5700

May 26, 2016, Introduced by Rep. Lyons and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending sections 951a and 952 (MCL 168.951a and 168.952),  
section 951a as added and section 952 as amended by 2012 PA 417.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 951a. (1) A petition for the recall of an officer listed  
2 in section 959 shall meet all of the following requirements:

3       (a) Comply with section 544c(1) and (2).

4       (b) Be printed.

5       (c) State factually and clearly each reason for the recall.  
6 Each reason for the recall shall be based upon the officer's  
7 conduct during his or her current term of office. The reason for

1 the recall may be typewritten. If any reason for the recall is  
2 based on the officer's conduct in connection with specific  
3 legislation, the reason for the recall shall not misrepresent the  
4 content of the specific legislation.

5 (d) Contain a certificate of the circulator. The certificate  
6 of the circulator may be printed on the reverse side of the  
7 petition.

8 (e) Be in a form prescribed by the secretary of state.

9 (2) Before being circulated, a petition for the recall of an  
10 officer ~~under subsection (1)~~ **LISTED IN SECTION 959, EXCEPT FOR A**  
11 **COUNTY OFFICER**, shall be submitted to the board of state  
12 canvassers.

13 (3) The board of state canvassers, not less than 10 days or  
14 more than 20 days after submission to it of a petition for the  
15 recall of an officer ~~under subsection (1)~~, **LISTED IN SECTION 959,**  
16 **EXCEPT FOR A COUNTY OFFICER**, shall meet and shall determine by an  
17 affirmative vote of 3 of the members serving on the board of state  
18 canvassers whether each reason for the recall stated in the  
19 petition is factual and of sufficient clarity to enable the officer  
20 whose recall is sought and the electors to identify the course of  
21 conduct that is the basis for the recall. If any reason for the  
22 recall is not factual or of sufficient clarity, the entire recall  
23 petition shall be rejected. Failure of the board of state  
24 canvassers to meet as required by this subsection shall constitute  
25 a determination that each reason for the recall stated in the  
26 petition is factual and of sufficient clarity to enable the officer  
27 whose recall is being sought and the electors to identify the

1 course of conduct that is the basis for the recall.

2 (4) The board of state canvassers, not later than ~~24 hours~~ **2**  
3 **BUSINESS DAYS** after receipt of a petition for the recall of an  
4 officer as provided under subsection (2), shall notify the officer  
5 whose recall is sought of each reason stated in the recall petition  
6 and of the date of the meeting of the board of state canvassers to  
7 consider whether each reason is factual and of sufficient clarity.

8 (5) The officer whose recall is sought and the sponsors of the  
9 recall petition may appear at the meeting and present arguments on  
10 whether each reason is factual and of sufficient clarity.

11 (6) The determination by the board of state canvassers may be  
12 appealed by the officer whose recall is sought or by the sponsors  
13 of the recall petition drive to the Michigan court of appeals. The  
14 appeal shall be filed not more than 10 days after the determination  
15 of the board of state canvassers. If a determination of the board  
16 of state canvassers is appealed to the Michigan court of appeals,  
17 the recall petition is not valid for circulation and shall not be  
18 circulated until a determination of whether each reason is factual  
19 and of sufficient clarity is made by the Michigan court of appeals  
20 or until 40 days after the date of the appeal, whichever is sooner.

21 (7) A petition is not valid for circulation if at any time the  
22 Michigan court of appeals determines that each reason on the recall  
23 petition is not factual and of sufficient clarity.

24 (8) A recall petition is valid for 180 days after either of  
25 the following, whichever occurs later:

26 (a) The date of determination of whether each reason is  
27 factual and of sufficient clarity by the board of state canvassers.

(b) The sooner of the following:

(i) The date of determination of whether each reason is factual and of sufficient clarity by the Michigan court of appeals.

(ii) Subject to subsection (7), 40 days after the date of the appeal under subsection (6).

(9) A recall petition that is filed after the 180-day period described in subsection (8) is not valid and shall not be accepted by the filing official under section 961. This subsection does not prohibit a person from resubmitting a recall petition for a determination of sufficient clarity and factualness under this section.

Sec. 952. (1) A petition for the recall of an officer listed in section 960 shall meet all of the following requirements:

(a) Comply with section 544c(1) and (2).

(b) Be printed.

(c) State factually and clearly each reason for the recall. Each reason for the recall shall be based upon the officer's conduct during his or her current term of office. The reason for the recall may be typewritten.

(d) Contain a certificate of the circulator. The certificate of the circulator may be printed on the reverse side of the petition.

(e) Be in a form prescribed by the secretary of state.

(2) Before being circulated, a petition for the recall of an officer ~~under subsection (1)~~ **LISTED IN SECTION 960 OR A PETITION FOR THE RECALL OF ANY COUNTY OFFICER** shall be submitted to the board of county election commissioners of the county in which the

1 officer whose recall is sought resides.

2 (3) The board of county election commissioners, not less than  
3 10 days or more than 20 days after submission to it of a petition  
4 for the recall of an officer ~~under subsection (1),~~ **LISTED IN**  
5 **SECTION 960 OR A PETITION FOR THE RECALL OF ANY COUNTY OFFICER,**  
6 shall meet and shall determine whether each reason for the recall  
7 stated in the petition is factual and of sufficient clarity to  
8 enable the officer whose recall is sought and the electors to  
9 identify the course of conduct that is the basis for the recall. If  
10 any reason for the recall is not factual or of sufficient clarity,  
11 the entire recall petition shall be rejected. Failure of the board  
12 of county election commissioners to meet as required by this  
13 subsection shall constitute a determination that each reason for  
14 the recall stated in the petition is factual and of sufficient  
15 clarity to enable the officer whose recall is being sought and the  
16 electors to identify the course of conduct that is the basis for  
17 the recall.

18 (4) The board of county election commissioners, not later than  
19 ~~24 hours~~ **2 BUSINESS DAYS** after receipt of a petition for the recall  
20 of an officer as provided under subsection (2), shall notify the  
21 officer whose recall is sought of each reason stated in the recall  
22 petition and of the date of the meeting of the board of county  
23 election commissioners to consider whether each reason is factual  
24 and of sufficient clarity.

25 (5) The officer whose recall is sought and the sponsors of the  
26 recall petition may appear at the meeting and present arguments on  
27 whether each reason is factual and of sufficient clarity.

1           (6) The determination by the board of county election  
2 commissioners may be appealed by the officer whose recall is sought  
3 or by the sponsors of the recall petition drive to the circuit  
4 court in the county. The appeal shall be filed not more than 10  
5 days after the determination of the board of county election  
6 commissioners. If a determination of the board of county election  
7 commissioners is appealed to the circuit court in the county, the  
8 recall petition is not valid for circulation and shall not be  
9 circulated until a determination of whether each reason is factual  
10 and of sufficient clarity is made by the circuit court or until 40  
11 days after the date of the appeal, whichever is sooner.

12           (7) A petition is not valid for circulation if at any time a  
13 circuit court determines that each reason on the recall petition is  
14 not factual and of sufficient clarity.

15           (8) A recall petition is valid for 180 days after either of  
16 the following, whichever occurs later:

17           (a) The date of determination of whether each reason is  
18 factual and of sufficient clarity by the board of county election  
19 commissioners.

20           (b) The sooner of the following:

21           (i) The date of determination of whether each reason is  
22 factual and of sufficient clarity by the circuit court.

23           (ii) Subject to subsection (7), 40 days after the date of the  
24 appeal under subsection (6).

25           (9) A recall petition that is filed after the 180-day period  
26 described in subsection (8) is not valid and shall not be accepted  
27 by the filing official under section 961. This subsection does not

1 prohibit a person from resubmitting a recall petition for a  
2 determination of sufficient clarity and factualness under this  
3 section.

4 Enacting section 1. This amendatory act takes effect 90 days  
5 after the date it is enacted into law.