SENATE BILL No. 1114

October 18, 2016, Introduced by Senators SCHMIDT, KNOLLENBERG, MACGREGOR, HANSEN, MARLEAU and O'BRIEN and referred to the Committee on Elections and Government Reform.

A bill to amend 1954 PA 116, entitled

"Michigan election law,"

by amending sections 758 and 759 (MCL 168.758 and 168.759), section 758 as amended by 1996 PA 207 and section 759 as amended by 2012 PA 523.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   Sec. 758. (1) For the purposes of this act, "absent voter"

2 means a qualified and registered elector who meets 1 or more of the

3 following requirements:

4   (a) On account of physical disability, cannot without

5 another's assistance attend the polls on the day of an election.

6   (b) On account of the tenets of his or her religion, cannot

7 attend the polls on the day of election.

8   (c) Cannot attend the polls on the day of an election in the

1 precinct in which he or she resides because of being an election

2 precinct inspector in another precinct.

3 (d) Is 60 years of age or older.

4 (e) Is absent or expects to be absent from the township or

5 city in which he or she resides during the entire period the polls

6 are open for voting on the day of an election.

7 (f) Cannot attend the polls on election day because of being

8 confined in jail awaiting arraignment or trial.

9 **(G) APPLIES FOR AN ABSENT VOTER BALLOT IN PERSON WITH THE**

10 **CLERK OF THE TOWNSHIP, CITY, OR VILLAGE IN WHICH HE OR SHE IS**

11 **REGISTERED, AND HE OR SHE IDENTIFIES HIMSELF OR HERSELF TO THE**

12 **CLERK BY PRESENTING AN OFFICIAL STATE PERSONAL IDENTIFICATION CARD**

13 **ISSUED TO THAT ELECTOR UNDER 1972 PA 222, MCL 28.291 TO 28.300, AN**

14 **OPERATOR'S OR CHAUFFEUR'S LICENSE ISSUED TO THAT ELECTOR UNDER THE**

15 **MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923, OR**

16 **ANOTHER GENERALLY RECOGNIZED PICTURE IDENTIFICATION CARD.**

17 (2) Subsection (1) does not apply to a person who has moved

18 outside of this state, regardless of length of his or her residence

19 outside of this state, and who no longer maintains an actual

20 residence in this state. The storage of personal effects or

21 household goods, the ownership of property that is rented or leased

22 to others, or occasional brief visits to a former domicile in this

23 state while residing outside of this state for most of the year

24 ~~does~~ **DO** not constitute a residence for voting purposes in this

25 state, except for each of the following:

26 (a) A person described in section 1 of article II of the state

27 constitution of 1963 and statutes enacted under that section.

1   (b) A person described in section 759a.

2   Sec. 759. (1) At any time during the 75 days before a primary

3 or special primary, but not later than 2 p.m. of the Saturday

4 immediately before the primary or special primary, 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**, SUBJECT TO SECTION 758(1)(G),** by mail with the clerk of

8 the township, city, or village in which the elector is registered.

9 An application received before a primary or special primary may be

10 for either that primary only, or for that primary and the election

11 that follows.

12   (2) Except as otherwise provided in subsection (1), at anytime

13 during the 75 days before an election, but not later than 2 p.m. of

14 the Saturday before the election, an elector who qualifies to vote

15 as an absent voter, as defined in section 758, may apply for an

16 absent voter ballot. The elector shall apply in person or**, SUBJECT**

17 **TO SECTION 758(1)(G),** by mail with the clerk of the township, city,

18 or village in which the voter is registered.

19   (3) An application for an absent voter ballot under this

20 section may be made in any of the following ways:

21   (a) By a written request signed by the voter stating the

22 statutory grounds for making the application.

23   (b) On an absent voter ballot application form provided for

24 that purpose by the clerk of the city, township, or village.

25   (c) On a federal postcard application.

26   (4) An applicant for an absent voter ballot shall sign the

27 application. A clerk or assistant clerk shall not deliver an absent

1 voter ballot to an applicant who does not sign the application. A

2 person shall not be in possession of a signed absent voter ballot

3 application except for the applicant; a member of the applicant's

4 immediate family; a person residing in the applicant's household; a

5 person whose job normally includes the handling of mail, but only

6 during the course of his or her employment; a registered elector

7 requested by the applicant to return the application; or a clerk,

8 assistant of the clerk, or other authorized election official. A

9 registered elector who is requested by the applicant to return his

10 or her absent voter ballot application shall sign the certificate

11 on the absent voter ballot application.

12 (5) The clerk of a city, township, or village shall have

13 absent voter ballot application forms available in the clerk's

14 office at all times and shall furnish an absent voter ballot

15 application form to anyone upon a verbal or written request. ~~The~~

16 **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), THE** absent voter

17 ballot application shall be in substantially the following form:

18 "Application for absent voter ballot for:

19 [ ] The primary or special primary election to be held on

20 _____ (Date).

21 [ ] The election to be held on _____ (Date).

22 (Check applicable election or elections)

23 I, ... , a United States

24 citizen and a qualified and registered elector of the ....

25 precinct of the township of .... or village of ....

26 or of the .... ward of the city of

27 .... , in the county of

1 .... and state of Michigan, apply for

2 an official ballot, or ballots, to be voted by me at the election

3 or elections as requested in this application.

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

5   [ ] I expect to be absent from the community in which I am

6 registered for the entire time the polls are open on election day.

7   [ ] I am physically unable to attend the polls without the

8 assistance of another.

9   [ ] I cannot attend the polls because of the tenets of my

10 religion.

11   [ ] I have been appointed an election precinct inspector in a

12 precinct other than the precinct where I reside.

13   [ ] I am 60 years of age or older.

14   [ ] I cannot attend the polls because I am confined to jail

15 awaiting arraignment or trial.

16   (Check applicable reason)

17   Send absent voter ballot to me at:

18   ....
19   (Street No. or R.R.)

20   ....
21 (Post Office)   (State) (Zip Code)

22   My registered address ....
23   (Street No. or R.R.)

24   ....
25   (Post Office)   (State)   (Zip Code)

26   Date...

27   I certify that I am a United States citizen and that

1   the statements in this absent voter ballot application

2   are true.

3   ....
4   (Signature)

5   <u>WARNING</u>

6   You must be a United States citizen to vote. If you are not a

7   United States citizen, you will not be issued an absent voter

8   ballot.

9   A person making a false statement in this absent voter ballot

10 application is guilty of a misdemeanor. It is a violation of

11 Michigan election law for a person other than those listed in the

12 instructions to return, offer to return, agree to return, or

13 solicit to return your absent voter ballot application to the

14 clerk. An assistant authorized by the clerk who receives absent

15 voter ballot applications at a location other than the clerk's

16 office must have credentials signed by the clerk. Ask to see his or

17 her credentials before entrusting your application with a person

18 claiming to have the clerk's authorization to return your

19 application.

20   Certificate of Authorized Registered

21   Elector Returning Absent Voter

22   Ballot Application

23   I certify that my name is .... , my address is

24 .... , and my date of birth is .... ; that

25 I am delivering the absent voter ballot application of

26 .... at his or her request; that I did not solicit

1 or request to return the application; that I have not made any

2 markings on the application; that I have not altered the

3 application in any way; that I have not influenced the applicant;

4 and that I am aware that a false statement in this certificate is a

5 violation of Michigan election law.

6 _____   _____

7   (Date)   (Signature)"

8   (6) IF AN ELECTOR WHO QUALIFIES TO VOTE AS AN ABSENT VOTER AS

9 DEFINED IN SECTION 758(1)(G) APPLIES FOR AN ABSENT VOTER BALLOT,

10 THE ABSENT VOTER BALLOT APPLICATION SHALL BE IN SUBSTANTIALLY THE

11 FOLLOWING FORM:

12   "APPLICATION FOR ABSENT VOTER BALLOT FOR:

13   [ ] THE PRIMARY OR SPECIAL PRIMARY ELECTION TO BE HELD ON

14 _____ (DATE).

15   [ ] THE ELECTION TO BE HELD ON _____ (DATE).

16   (CHECK APPLICABLE ELECTION OR ELECTIONS)

17   I, ... , A UNITED STATES

18 CITIZEN AND 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

21 .... , IN THE COUNTY OF

22 .... AND STATE OF MICHIGAN, APPLY FOR

23 AN OFFICIAL BALLOT, OR BALLOTS, TO BE VOTED BY ME AT THE ELECTION

24 OR ELECTIONS AS REQUESTED IN THIS APPLICATION.

25   THE STATUTORY GROUND ON WHICH I BASE MY REQUEST IS:

26   [ ] I AM APPLYING FOR AN ABSENT VOTER BALLOT IN PERSON WITH

1 THE CLERK OF THE TOWNSHIP, CITY, OR VILLAGE IN WHICH I AM

2 REGISTERED, AND I AM IDENTIFYING MYSELF TO THE CLERK BY PRESENTING

3 AN OFFICIAL STATE PERSONAL IDENTIFICATION CARD, AN OPERATOR'S OR

4 CHAUFFEUR'S LICENSE, OR ANOTHER GENERALLY RECOGNIZED PICTURE

5 IDENTIFICATION CARD.

6   SEND ABSENT VOTER BALLOT TO ME AT:

7   ....

8   (STREET NO. OR R.R.)

9   ....

10   (POST OFFICE)   (STATE) (ZIP CODE)

11   MY REGISTERED ADDRESS ....

12   (STREET NO. OR R.R.)

13   ....

14   (POST OFFICE)   (STATE)   (ZIP CODE)

15   DATE...

16   I CERTIFY THAT I AM A UNITED STATES CITIZEN AND THAT

17   THE STATEMENTS IN THIS ABSENT VOTER BALLOT APPLICATION

18   ARE TRUE.

19   ....

20   (SIGNATURE)

21   WARNING

22   YOU MUST BE A UNITED STATES CITIZEN TO VOTE. IF YOU ARE NOT A

23 UNITED STATES CITIZEN, YOU WILL NOT BE ISSUED AN ABSENT VOTER

24 BALLOT.

25   A PERSON MAKING A FALSE STATEMENT IN THIS ABSENT VOTER BALLOT

26 APPLICATION IS GUILTY OF A MISDEMEANOR. IT IS A VIOLATION OF

1 MICHIGAN ELECTION LAW FOR A PERSON OTHER THAN THOSE LISTED IN THE

2 INSTRUCTIONS TO RETURN, OFFER TO RETURN, AGREE TO RETURN, OR

3 SOLICIT TO RETURN YOUR ABSENT VOTER BALLOT APPLICATION TO THE

4 CLERK. AN ASSISTANT AUTHORIZED BY THE CLERK WHO RECEIVES ABSENT

5 VOTER BALLOT APPLICATIONS AT A LOCATION OTHER THAN THE CLERK'S

6 OFFICE MUST HAVE CREDENTIALS SIGNED BY THE CLERK. ASK TO SEE HIS OR

7 HER CREDENTIALS BEFORE ENTRUSTING YOUR APPLICATION WITH A PERSON

8 CLAIMING TO HAVE THE CLERK'S AUTHORIZATION TO RETURN YOUR

9 APPLICATION.

10 CERTIFICATE OF AUTHORIZED REGISTERED

11 ELECTOR RETURNING ABSENT VOTER

12 BALLOT APPLICATION

13 I CERTIFY THAT MY NAME IS .... , MY ADDRESS IS

14 .... , AND MY DATE OF BIRTH IS .... ; THAT

15 I AM DELIVERING THE ABSENT VOTER BALLOT APPLICATION OF

16 .... AT HIS OR HER REQUEST; THAT I DID NOT SOLICIT

17 OR REQUEST TO RETURN THE APPLICATION; THAT I HAVE NOT MADE ANY

18 MARKINGS ON THE APPLICATION; THAT I HAVE NOT ALTERED THE

19 APPLICATION IN ANY WAY; THAT I HAVE NOT INFLUENCED THE APPLICANT;

20 AND THAT I AM AWARE THAT A FALSE STATEMENT IN THIS CERTIFICATE IS A

21 VIOLATION OF MICHIGAN ELECTION LAW.

22 _____   _____

23 (DATE)   (SIGNATURE)"

24 (7) (6) The following instructions for an applicant for an

25 absent voter ballot shall be included with each application

1 furnished an applicant:

2   INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

3   Step 1. After completely filling out the application, sign and

4 date the application in the place designated. Your signature must

5 appear on the application or you will not receive an absent voter

6 ballot.

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

8   (a) Place the application in an envelope addressed to the

9 appropriate clerk and place the necessary postage upon the return

10 envelope and deposit it in the United States mail or with another

11 public postal service, express mail service, parcel post service,

12 or common carrier.

13   (b) Deliver the application personally to the clerk's office,

14 to the clerk, or to an authorized assistant of the clerk.

15   (c) In either (a) or (b), a member of the immediate family of

16 the voter including a father-in-law, mother-in-law, brother-in-law,

17 sister-in-law, son-in-law, daughter-in-law, grandparent, or

18 grandchild or a person residing in the voter's household may mail

19 or deliver the application to the clerk for the applicant.

20   (d) If an applicant cannot return the application in any of

21 the above methods, the applicant may select any registered elector

22 to return the application. The person returning the application

23 must sign and return the certificate at the bottom of the

24 application.

25 ~~(7) A person who prints and distributes absent voter ballot~~

26 ~~applications shall print on the application the warning,~~

1 ~~certificate of authorized registered elector returning absent voter~~

2 ~~ballot application, and instructions required by this section.~~

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

4 ballot application is guilty of a misdemeanor. A person who forges

5 a signature on an absent voter ballot application is guilty of a

6 felony. A person who is not authorized in this act and who both

7 distributes absent voter ballot applications to absent voters and

8 returns those absent voter ballot applications to a clerk or

9 assistant of the clerk is guilty of a misdemeanor.

10   **(9) A PERSON WHO PRINTS AND DISTRIBUTES ABSENT VOTER BALLOT**

11 **APPLICATIONS SHALL PRINT ON THE APPLICATION THE WARNING,**

12 **CERTIFICATE OF AUTHORIZED REGISTERED ELECTOR RETURNING ABSENT VOTER**

13 **BALLOT APPLICATION, AND INSTRUCTIONS REQUIRED BY THIS SECTION.**

14   Enacting section 1. This amendatory act takes effect January

15 1, 2017.

16   Enacting section 2. If any portion of this amendatory act or

17 the application of this amendatory act to any person or

18 circumstances is found invalid by a court, it is the intent of the

19 legislature that the provisions of this amendatory act are

20 nonseverable and that the remainder of the amendatory act shall be

21 invalid, inoperable, and without effect.