

HOUSE BILL NO. 5807

May 20, 2020, Introduced by Reps. Rabhi, Hoadley, Hood, Pohutsky, Kennedy, Kuppa, Sowerby, Brixie, Shannon, Manoogian, Ellison, Chirkun, Cherry and Love and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 759a, 764a, and 765 (MCL 168.759a, 168.764a, and 168.765), section 759a as amended by 2012 PA 523, section 764a as amended by 2012 PA 128, and section 765 as amended by 2018 PA 603.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 759a. (1) An absent uniformed services voter or an
2 overseas voter who is not registered, but possessed the



1 qualifications of an elector under section 492, may apply for
2 registration by using the federal postcard application. The
3 department of state, bureau of elections, is responsible for
4 disseminating information on the procedures for registering and
5 voting to an absent uniformed services voter and an overseas voter.

6 (2) Upon the request of an absent uniformed services voter or
7 an overseas voter, the clerk of a county, city, township, or
8 village shall electronically transmit a blank voter registration
9 application or blank absent voter ballot application to the voter.
10 The clerk of a county, city, township, or village shall accept a
11 completed voter registration application or completed absent voter
12 ballot application electronically transmitted by an absent
13 uniformed services voter or overseas voter. A voter registration
14 application or absent voter ballot application submitted by an
15 absent uniformed services voter or overseas voter ~~shall~~**must**
16 contain the signature of the voter.

17 (3) A spouse or dependent of an overseas voter who is a
18 citizen of the United States, is accompanying that overseas voter,
19 and is not a qualified and registered elector anywhere else in the
20 United States, may apply for an absent voter ballot even though the
21 spouse or dependent is not a qualified elector of a city or
22 township of this state.

23 (4) An absent uniformed services voter or an overseas voter,
24 whether or not registered to vote, may apply for an absent voter
25 ballot. Upon receipt of an application for an absent voter ballot
26 under this section that complies with this act, a county, city,
27 village, or township clerk shall forward to the applicant the
28 absent voter ballots requested, the forms necessary for
29 registration, and instructions for completing the forms. If the



1 ballots are not yet available at the time of receipt of the
2 application, the clerk shall immediately forward to the applicant
3 the registration forms and instructions, and forward the ballots as
4 soon as they are available. If a federal postcard application or an
5 application from the official United States ~~department~~**Department**
6 of ~~defense~~**Defense** website is filed, the clerk shall accept the
7 federal postcard application or the application from the official
8 United States ~~department~~**Department** of ~~defense~~**Defense** website as
9 the registration application and shall not send any additional
10 registration forms to the applicant. If the ballots and
11 registration forms are received before the close of the polls on
12 election day and if the registration complies with the requirements
13 of this act, the absent voter ballots ~~shall~~**must** be delivered to
14 the proper election board to be **counted and** tabulated. **If the**
15 **absent voter ballot return envelope containing a marked absent**
16 **voter ballot is postmarked before or on election day and the absent**
17 **voter ballot is received by the city or township clerk within 6**
18 **days after election day, the city or township clerk shall count and**
19 **tabulate that absent voter ballot. If the absent voter ballot**
20 **return envelope containing a marked absent voter ballot does not**
21 **have a postmark or the postmark on the envelope is illegible, and**
22 **the voter submits a signed affidavit with the city or township**
23 **clerk within 6 days after election day stating that the absent**
24 **voter ballot was completed and the envelope postmarked on or before**
25 **election day, the city or township clerk shall count and tabulate**
26 **that absent voter ballot. Within 7 days after election day, each**
27 **city and township clerk shall transmit the results of the absent**
28 **voter ballots tabulated after the election to the board of county**
29 **canvassers of the county in which that city or township is located.**



1 If the registration does not comply with the requirements of this
2 act, the clerk shall retain the absent voter ballots until the
3 expiration of the time that the voted ballots must be kept and
4 shall then destroy the ballots without opening the envelope. The
5 clerk may retain registration forms completed under this section in
6 a separate file. The address in this state shown on a registration
7 form is the residence of the registrant.

8 (5) Not later than 45 days before an election, a county, city,
9 township, or village clerk shall electronically transmit or mail as
10 appropriate an absent voter ballot to each absent uniformed
11 services voter or overseas voter who applied for an absent voter
12 ballot 45 days or more before the election.

13 (6) Upon the request of an absent uniformed services voter or
14 overseas voter, the clerk of a county, city, township, or village
15 shall electronically transmit an absent voter ballot to the voter.
16 The voter shall print the absent voter ballot and return the voted
17 ballot by mail to the appropriate clerk.

18 (7) The secretary of state shall prescribe electronic absent
19 voter ballot formats and electronic absent voter ballot
20 transmission methods. Each county, city, township, or village clerk
21 shall employ the prescribed electronic ballot formats to fulfill an
22 absent voter ballot request received from an absent uniformed
23 services voter or overseas voter who wishes to receive his or her
24 absent voter ballot through an electronic transmission. The
25 secretary of state shall establish procedures to implement the
26 requirements in this section and for the processing of a marked
27 absent voter ballot returned by an absent uniformed services voter
28 or overseas voter who obtained his or her absent voter ballot
29 through an electronic transmission.



1 (8) The secretary of state shall modify the printed statement
2 provided under section 761(4) and the absent voter ballot
3 instructions provided under section 764a as appropriate to
4 accommodate the procedures developed for electronically
5 transmitting an absent voter ballot to an absent uniformed services
6 voter or overseas voter. A statement ~~shall~~**must** be included in the
7 certificate signed by the absent voter who obtained his or her
8 absent voter ballot through an electronic transmission that the
9 secrecy of the absent voter ballot may be compromised during the
10 duplication process. The absent voter ballot instructions provided
11 to an absent uniformed services voter or overseas voter ~~shall~~**must**
12 include the proper procedures for returning the absent voter ballot
13 to the appropriate clerk.

14 (9) The size of a precinct ~~shall~~**must** not be determined by
15 registration forms completed under this section.

16 (10) An absent uniformed services voter or an overseas voter
17 who submits an absent voter ballot application is eligible to vote
18 as an absent voter in any local, state, or federal election
19 occurring in the calendar year in which the election is held for
20 that ballot requested if the absent voter ballot application is
21 received by the county, city, village, or township clerk not later
22 than 2 p.m. of the Saturday before the election. A county, city, or
23 township clerk receiving an absent voter ballot application from an
24 absent uniformed services voter or overseas voter shall transmit to
25 a village clerk and the school district election coordinators,
26 where applicable, the necessary information to enable the village
27 clerk and school district election coordinators to forward an
28 absent voter ballot for each applicable election in that calendar
29 year to the absent voter. A village clerk receiving an absent voter



1 ballot application from an absent uniformed services voter or
2 overseas voter shall transmit to the township clerk and the school
3 district election coordinators, where applicable, the necessary
4 information to enable the city or township clerk and school
5 district election coordinators to forward an absent voter ballot
6 for each applicable election in that calendar year to the absent
7 voter. If the local elections official rejects a voter registration
8 application or absent voter ballot application submitted by an
9 absent uniformed services voter or overseas voter, the election
10 official shall notify the voter of the rejection.

11 (11) An electronic mail address provided by an absent
12 uniformed services voter or overseas voter for the purposes of this
13 section is confidential and exempt from disclosure under the
14 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

15 (12) Under the uniformed and overseas citizens absentee voting
16 act, the state director of elections shall approve a ballot form
17 and registration procedures for absent uniformed services voters
18 and overseas voters.

19 (13) An absent uniformed services voter or an overseas voter
20 may use the federal write-in absentee ballot, in accordance with
21 the provisions of the uniformed and overseas citizens absentee
22 voting act, at a regular election or special election to vote for a
23 local, state, or federal office or on a ballot question. An absent
24 uniformed services voter or an overseas voter who uses the federal
25 write-in absentee ballot shall return his or her voted federal
26 write-in absentee ballot by mail to the appropriate clerk. The
27 state bureau of elections shall do both of the following:

28 (a) Make the ballot format for each election available to
29 absent uniformed services voters and overseas voters by electronic



1 mail or on an internet website maintained by the department of
2 state.

3 (b) Make the ballot information, including the offices, names
4 of candidates, and ballot proposals, for each election available to
5 absent uniformed services voters and overseas voters on an internet
6 website maintained by the department of state.

7 (14) The clerk of a city, village, or township shall submit to
8 the county clerk of the county in which that city, village, or
9 township is located a written statement no later than 45 days
10 before each election indicating whether absent voter ballots were
11 issued to absent uniformed services voters or overseas voters in
12 compliance with this section and the uniformed and overseas
13 citizens absentee voting act. The city, village, or township clerk
14 shall provide to the county clerk a written explanation describing
15 remedial actions taken by the city, village, or township clerk if
16 the city, village, or township clerk fails to comply with this
17 section and the uniformed and overseas citizens absentee voting
18 act. Not later than 42 days before each election, each county clerk
19 shall submit to the state bureau of elections a written report
20 compiled from the written statements submitted by the city,
21 village, and township clerks. The written report ~~shall~~**must**
22 identify the cities, villages, and townships that complied with the
23 45-day deadline under this subsection, the cities, villages, and
24 townships that did not comply with the 45-day deadline under this
25 subsection, but provided a written explanation, and those cities,
26 villages, and townships that did not comply with the 45-day
27 deadline under this subsection and that did not provide a written
28 explanation. The state bureau of elections may require the clerk of
29 a city, village, or township that did not comply with the 45-day



1 deadline under this subsection, but provided a written explanation,
2 to provide additional information. The state bureau of elections
3 shall require the clerk of a city, village, or township that did
4 not comply with the 45-day deadline and that did not provide a
5 written explanation to file a written explanation, describing the
6 remedial actions taken by the city, village, or township clerk,
7 within 1 business day after the state bureau of elections notifies
8 the clerk of that city, village, or township.

9 (15) For a presidential primary election, the secretary of
10 state shall prescribe procedures for contacting an elector who is
11 an absent uniformed services voter or an overseas voter, as
12 described in this section, and who is eligible to receive an absent
13 voter ballot or who applies for an absent voter ballot for the
14 presidential primary election, offering the elector the opportunity
15 to select a political party ballot for the presidential primary
16 election.

17 (16) The secretary of state shall order a city, village, or
18 township clerk to extend the ballot receipt deadline for any
19 absentee voter ballots under this section that were not transmitted
20 to an absent uniformed services voter or overseas voter in
21 compliance with subsection (5). The extension ~~shall~~**must** equal the
22 total number of days beyond the deadline as provided in subsection
23 (5) that the city, village, or township clerk transmitted the
24 requested absentee voter ballots. These absentee voter ballots
25 received during the extension time ~~shall~~**must** be counted and
26 tabulated for the final results of the election provided that the
27 absentee voter ballots are executed and sent by the close of the
28 polls on election day. The election may be formally certified
29 before the end of the extension time if the number of outstanding



1 absentee voter ballots under this subsection will not alter the
2 outcome of the election.

3 (17) As used in this section:

4 (a) "Absent uniformed services voter" means any of the
5 following:

6 (i) A member of a uniformed service on active duty who, by
7 reason of being on active duty, is absent from the place of
8 residence where the member is otherwise qualified to vote.

9 (ii) A member of the merchant marine who, by reason of service
10 in the merchant marine, is absent from the place of residence where
11 the member is otherwise qualified to vote.

12 (iii) A spouse or dependent of a member referred to in
13 subparagraph (i) or (ii) who, by reason of the active duty or service
14 of the member, is absent from the place of residence where the
15 spouse or dependent is otherwise qualified to vote.

16 (b) "Member of the merchant marine" means an individual, other
17 than a member of a uniformed service or an individual employed,
18 enrolled, or maintained on the Great Lakes or the inland waterways,
19 who is either of the following:

20 (i) Employed as an officer or crew member of a vessel
21 documented under the laws of the United States, a vessel owned by
22 the United States, or a vessel of foreign-flag registry under
23 charter to or control of the United States.

24 (ii) Enrolled with the United States for employment or training
25 for employment, or maintained by the United States for emergency
26 relief service, as an officer or crew member of a vessel documented
27 under the laws of the United States, a vessel owned by the United
28 States, or a vessel of foreign-flag registry under charter to or
29 control of the United States.



1 (c) "Overseas voter" means any of the following:

2 (i) An absent uniformed services voter who, by reason of active
3 duty or service, is absent from the United States on the date of an
4 election.

5 (ii) A person who resides outside of the United States and is
6 qualified to vote in the last place in which the person was
7 domiciled before leaving the United States.

8 (iii) A person who resides outside of the United States and who,
9 but for such residence outside of the United States, would be
10 qualified to vote in the last place in which he or she was
11 domiciled before leaving the United States.

12 (d) "Uniformed services" means the ~~army, navy, air force,~~
13 ~~marine corps, coast guard,~~ **Army, Navy, Air Force, Marine Corps, or**
14 **Coast Guard**, the ~~commissioned corps~~ **Commissioned Corps** of the
15 ~~public health service,~~ **Public Health Service**, the ~~commissioned~~
16 ~~corps~~ **Commissioned Corps** of the ~~national oceanic~~ **National Oceanic**
17 ~~and atmospheric administration,~~ **Atmospheric Administration**, a
18 reserve component of a uniformed service, or the Michigan ~~national~~
19 ~~guard~~ **National Guard** as **that term is** defined in section 105 of the
20 Michigan military act, 1967 PA 150, MCL 32.505.

21 Sec. 764a. The following instructions for an absent voter
22 ~~shall~~ **must** be included with each ballot or set of ballots furnished
23 an absent voter:

24

25 INSTRUCTIONS FOR ABSENT VOTERS

26

27 Step 1. Enclosed you will find voting instructions as to the
28 method of voting. Read these carefully and then vote the ballot.

29 Step 2. After voting a ballot, place the ballot in the secrecy



1 sleeve, if any. If a secrecy sleeve is not provided, refold the
2 ballot to conceal your votes.

3 Step 3. Place the ballot or ballots in the return envelope and
4 securely seal the envelope.

5 Step 4. Sign and date the return envelope in the place
6 designated. Your signature must appear on the return envelope or
7 the ballot will not be counted. If you are disabled or otherwise
8 unable to mark the ballot and required assistance in voting your
9 absent voter ballot, have the person who assisted you complete the
10 section on the return envelope entitled "TO BE COMPLETED ONLY IF
11 VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON".

12 Step 5. Deliver the return envelope by 1 of the following
13 methods:

14 (a) Place the necessary postage upon the return envelope and
15 deposit it in the United States mail or with another public postal
16 service, express mail service, parcel post service, or common
17 carrier.

18 (b) Deliver the envelope personally to the office of the
19 clerk, to the clerk, or to an authorized assistant of the clerk.

20 (c) In either (a) or (b), a member of the immediate family of
21 the voter including a father-in-law, mother-in-law, brother-in-law,
22 sister-in-law, son-in-law, daughter-in-law, grandparent, or
23 grandchild or a person residing in the voter's household may mail
24 or deliver a ballot to the clerk for the voter.

25 (d) You may request by telephone that the clerk who issued the
26 ballot provide assistance in returning the ballot. The clerk is
27 required to provide assistance if you are unable to return your
28 absent voter ballot as specified in (a), (b), or (c) above, if it
29 is before 5 p.m. on the Friday immediately preceding the election,



1 and if you are asking the clerk to ~~pickup~~**pick up** the absent voter
 2 ballot within the jurisdictional limits of the city, township, or
 3 village in which you are registered. Your absent voter ballot will
 4 then be picked up by the clerk or an election assistant sent by the
 5 clerk. All persons authorized to pick up absent voter ballots are
 6 required to carry credentials issued by the clerk. If using this
 7 absent voter ballot return method, do not give your ballot to
 8 anyone until you have checked their credentials.

9 Step 6. The **absent voter ballot return envelope containing a**
 10 **marked absent voter** ballot must **be postmarked before or on election**
 11 **day and must** reach the clerk or an authorized assistant of the
 12 clerk ~~before the close of the polls on~~**within 6 days after** election
 13 day. ~~An~~**If the return envelope containing an** absent voter ballot **is**
 14 **postmarked after election day or is** received by the clerk or
 15 assistant of the clerk ~~after the close of the polls on~~**more than 6**
 16 **days after** election day, **the absent voter ballot** will not be
 17 counted.

18
 19 WARNING
 20

21 All of the following actions are violations of the Michigan
 22 election law and are illegal in this state:

23 (1) To vote an absent voter ballot at a meeting or gathering
 24 at which other people are voting absent voter ballots.

25 (2) For a person who is assisting an absent voter in marking
 26 the ballot to suggest or in any manner attempt to influence the
 27 absent voter on how he or she should vote.

28 (3) For a person who is present and knows that a person is
 29 voting an absent voter ballot to suggest or in any manner attempt



1 to influence the absent voter on how he or she should vote.

2 (4) For a person other than those listed in these instructions
3 to return, offer to return, agree to return, or solicit to return
4 an absent voter ballot to the clerk.

5 (5) For a person other than the absent voter; a person listed
6 in these instructions; or a person whose job it is to handle mail
7 before, during, or after being transported by a public postal
8 service, express mail service, parcel post service, or common
9 carrier, but only during the normal course of his or her employment
10 to be in possession of a voted or unvoted absent voter ballot.

11 Sec. 765. (1) A clerk who receives an absent voter ballot
12 return envelope containing the marked ballots of an absent voter
13 shall not open that envelope before delivering the envelope to the
14 board of election inspectors as provided in this section. The city
15 or township clerk shall safely keep in his or her office until
16 election day any absent voter ballot return envelopes received by
17 the clerk before election day containing the marked ballots of an
18 absent voter.

19 (2) Before the opening of the polls on election day or as soon
20 after the opening of the polls as possible, the clerk shall deliver
21 the absent voter ballot return envelopes to the chairperson or
22 other member of the board of election inspectors in the absent
23 voter's precinct, together with the signed absent voter ballot
24 applications received by the clerk from any voters of that precinct
25 and the clerk's list or record kept relative to those absent
26 voters. However, if higher numbered ballots are used under section
27 717, the clerk shall retain the applications and lists in his or
28 her office and shall keep the applications and lists open to public
29 inspection at all reasonable hours. Absent voter ballots must not



1 be tabulated before the opening of the polls on election day.

2 (3) The city or township clerk, or authorized designee of the
3 clerk, shall call for and receive absent voter ballots from the
4 post office at which the city or township clerk regularly receives
5 mail addressed to the city or township clerk on election day. Any
6 envelopes containing absent voter ballots that are received from
7 the post office or from voters who voted by absentee ballot in
8 person in the clerk's office on election day must be delivered to
9 the board of election inspectors or the absent voter counting
10 boards to be tabulated.

11 (4) **If the absent voter ballot return envelope containing a**
12 **marked absent voter ballot is postmarked before or on election day**
13 **and the absent voter ballot is received by the city or township**
14 **clerk within 6 days after election day, the city or township clerk**
15 **shall count and tabulate that absent voter ballot. If the absent**
16 **voter ballot return envelope containing a marked absent voter**
17 **ballot does not have a postmark or the postmark on the envelope is**
18 **illegible, and the voter submits a signed affidavit with the city**
19 **or township clerk within 6 days after election day stating that the**
20 **absent voter ballot was completed and the envelope postmarked on or**
21 **before election day, the city or township clerk shall count and**
22 **tabulate that absent voter ballot. Within 7 days after election**
23 **day, each city and township clerk shall transmit the results of the**
24 **absent voter ballots tabulated after the election to the board of**
25 **county canvassers of the county in which that city or township is**
26 **located. If the absent voter ballot return envelope containing a**
27 **marked absent voter ballot is postmarked after election day or is**
28 **received by the clerk ~~after the close of the polls, more than 6~~**
29 **days after election day, the clerk shall plainly mark the return**



1 envelope with the time and date of receipt and shall file the
2 **return** envelope in his or her office.

3 (5) On or before 8 a.m. on election day, the clerk shall post
4 in the clerk's office or otherwise make public the number of absent
5 voter ballots the clerk distributed to absent voters and the number
6 of absent voter ballot return envelopes containing the marked
7 ballots of absent voters received by the clerk before election day
8 and to be delivered to the board of election inspectors or the
9 absent voter counting boards under this act. On or before 9 p.m. on
10 election day, the clerk shall post in the clerk's office or
11 otherwise make public the number of absent voter ballot return
12 envelopes containing the marked ballots of absent voters received
13 by the clerk on election day and delivered to the board of election
14 inspectors, under subsection (3), along with the total number of
15 absent voter ballot return envelopes containing the marked ballots
16 of absent voters received by the clerk both before and on election
17 day and delivered to the board of election inspectors or the absent
18 voter counting boards under this act. As soon as possible after all
19 precincts in the city or township are processed, the clerk shall
20 post in the clerk's office or otherwise make public the number of
21 absent voter ballot return envelopes containing the marked ballots
22 of absent voters received by the election inspectors at the
23 precincts on election day, along with the total number of absent
24 voter ballot return envelopes containing the marked ballots of
25 absent voters received in the city or township for that election.
26 This subsection applies only to elections in which a federal or
27 state office appears on the ballot.

