SENATE BILL NO. 71

January 29, 2019, Introduced by Senators BARRETT, JOHNSON, HOLLIER, IRWIN, CHANG, WOJNO, THEIS, POLEHANKI, MCMORROW, MOSS, BAYER and DALEY and referred to the Committee on Elections.

     A bill to amend 1954 PA 116, entitled

"Michigan election law,"

by amending sections 509q, 758, 759, and 761 (MCL 168.509q, 168.758, 168.759, and 168.761), section 509q as amended by 2012 PA 586, section 758 as amended by 1996 PA 207, section 759 as amended by 2012 PA 523, and section 761 as amended by 2018 PA 129, and by adding sections 499b and 735a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   **Sec. 499b. The voter registration application of an elector**

2   **who is a program participant, as that term is defined in the**

3   **address confidentiality program act, is confidential and not**

4   **subject to disclosure under the freedom of information act, 1976 PA**

5   **442, MCL 15.231 to 15.246.**

6   Sec. 509q. **(1)** ~~The~~ **Subject to subsection (2), the** qualified

7   voter file ~~shall~~ **must** contain all of the following information for

8   each qualified voter:

9   (a) The name; residence address including house number and

10   street name or rural route and box number, and the apartment

11   number, if any; city; state; zip code; and date of birth.

12   (b) The ~~driver's~~ **driver** license number or state personal

13   identification card number or similar number issued by a designated

14   voter registration agency.

15   (c) Jurisdictional information including county and city or

16   township; village, if any; metropolitan district, if any; and

17   school district.

18   (d) Precinct numbers and ward numbers, if any.

19   (e) Any other information that the secretary of state

20   determines is necessary to assess the eligibility of qualified

21   electors or to administer voter registration or other aspects of

22   the election process.

23   (f) Voting history for a 5-year period.

24   (g) The most recent digitized signature of an elector if

25   captured or reproduced by the secretary of state or a county, city,

26   or township clerk from a voter registration application ~~pursuant to~~

27   **under** section 509hh, or captured or reproduced by the secretary of

28   state ~~pursuant to~~ **under** section 307 of the Michigan vehicle code,

1　　1949 PA 300, MCL 257.307.

2　　　　**(2) If a qualified voter is a program participant, as that**

3　　**term is defined in the address confidentiality program act, the**

4　　**qualified voter file must also contain the program participant's**

5　　**unique identification number issued by the department of the**

6　　**attorney general.**

7　　　　**(3) Except as otherwise provided in this subsection, if a**

8　　**qualified voter is a program participant, as that term is defined**

9　　**in the address confidentiality program act, the information**

10　　**contained in the qualified voter file for that program participant,**

11　　**including his or her unique identification number issued by the**

12　　**department of the attorney general, is confidential and not subject**

13　　**to disclosure under the freedom of information act, 1976 PA 442,**

14　　**MCL 15.231 to 15.246. The information contained in the qualified**

15　　**voter file for a program participant, as that term is defined in**

16　　**the address confidentiality program act, may be used by an election**

17　　**official during the normal course of his or her duties as an**

18　　**election official.**

19　　　　**Sec. 735a. For a program participant, as that term is defined**

20　　**in the address confidentiality program act, any poll list or poll**

21　　**book created for or used at an election must only contain the name**

22　　**of that program participant and a notation for the precinct**

23　　**election inspectors to contact the city or township clerk on how to**

24　　**process the elector who is a program participant.**

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

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

27　　following requirements:

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

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

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

2 attend the polls on the day of **an** election.

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

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

5 precinct inspector in another precinct.

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

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

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

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

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

11 confined in jail awaiting arraignment or trial.

12   **(g) Is a program participant in the address confidentiality**

13 **program and provides his or her program participant identification**

14 **number.**

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

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

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

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

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

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

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

22 does not constitute a residence for voting purposes in this state,

23 except for each of the following:

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

25 constitution of 1963 and statutes enacted under that section.

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

27   **(3) If a qualified elector is a program participant, as that**

28 **term is defined in the address confidentiality program act, then**

29 **that qualified elector shall only vote an absent voter ballot while**

1   **he or she is a program participant.**

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 by mail with the clerk of the township, city, or village

8   in which the elector is registered. An application received before

9   a primary or special primary may be for either that primary only,

10   or for that primary and the election that follows.

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

12   **any time** during the 75 days before an election, but not later than

13   2 p.m. of the Saturday before the election, an elector who

14   qualifies to vote as an absent voter, as defined in section 758,

15   may apply for an absent voter ballot. The elector shall apply in

16   person or by mail with the clerk of the township, city, or village

17   in which the voter is registered.

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

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

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

21   statutory grounds for making the application.

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

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

24   (c) On a federal postcard application.

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

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

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

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

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

1 immediate family; a person residing in the applicant's household; a
2 person whose job normally includes the handling of mail, but only
3 during the course of his or her employment; a registered elector
4 requested by the applicant to return the application; or a clerk,
5 assistant of the clerk, or other authorized election official. A
6 registered elector who is requested by the applicant to return his
7 or her absent voter ballot application shall sign the certificate
8 on the absent voter ballot application.
9   (5) The clerk of a city, township, or village shall have
10 absent voter ballot application forms available in the clerk's
11 office at all times and shall furnish an absent voter ballot
12 application form to anyone upon a verbal or written request. The
13 absent voter ballot application ~~shall~~ **must** be in substantially the
14 following form:
15   "Application for absent voter ballot for:
16   [ ] The primary or special primary election to be held on
17 _____ (Date).
18   [ ] The election to be held on _____ (Date).
19   (Check applicable election or elections)
20   I, ... , a United States
21 citizen and a qualified and registered elector of the ....
22 precinct of the township of .... or village of ....
23 or of the .... ward of the city of
24 .... , in the county of
25 .... and state of Michigan, apply for
26 an official ballot, or ballots, to be voted by me at the election
27 or elections as requested in this application.
28   The statutory grounds on which I base my request are:
29   [ ] I expect to be absent from the community in which I am

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

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

3   assistance of another.

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

5   religion.

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

7   precinct other than the precinct where I reside.

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

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

10   awaiting arraignment or trial.

11   **[ ] I am a program participant in the address confidentiality**

12   **program and I am providing my program participant identification**

13   **number.**

14   (Check applicable reason)

15   Send absent voter ballot to me at:

16

17   _____
     (Street No. or R.R. **or Designated Address**)

18

19   _____
     (Post Office)   (State)   (Zip Code)

20   My registered address

21   _____
     (Street No. or R.R. **or Program Participant Identification Number**)

22

23   _____
     (Post Office)   (State)   (Zip Code)

24   Date _____

25   I certify that I am a United States citizen and that the

26   statements in this absent voter ballot application are true.

27

28   _____
                         (Signature)

29   WARNING

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

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

3 ballot.

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

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

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

7 instructions to return, offer to return, agree to return, or

8 solicit to return your absent voter ballot application to the

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

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

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

12 her credentials before entrusting your application with a person

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

14 application.

15   Certificate of Authorized Registered

16   Elector Returning Absent Voter

17   Ballot Application

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

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

20 I am delivering the absent voter ballot application of

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

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

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

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

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

26 violation of Michigan election law.

27

28   _____   _____
          (Date)   (Signature)"

29   (6) The following instructions for an applicant for an absent

1 voter ballot ~~shall~~ **must** be included with each application furnished

2 an applicant:

3 <u>INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS</u>

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

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

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

7 ballot.

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

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

10 appropriate clerk and place the necessary postage upon the return

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

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

13 or common carrier.

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

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

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

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

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

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

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

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

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

23 to return the application. The person returning the application

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

25 application.

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

27 applications shall print on the application the warning,

28 certificate of authorized registered elector returning absent voter

29 ballot application, and instructions required by this section.

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

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

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

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

5   distributes absent voter ballot applications to absent voters and

6   returns those absent voter ballot applications to a clerk or

7   assistant of the clerk is guilty of a misdemeanor.

8   **(9) The absent voter ballot application of an elector who is a**

9   **program participant, as that term is defined in the address**

10   **confidentiality program act, is confidential and not subject to**

11   **disclosure under the freedom of information act, 1976 PA 442, MCL**

12   **15.231 to 15.246.**

13   Sec. 761. (1) If the clerk of a city, township, or village

14   receives an application for an absent voter ballot from a person

15   registered to vote in that city, township, or village and if the

16   signature on the application agrees with the signature for the

17   person contained in the qualified voter file or on the registration

18   card as required in subsection (2), the clerk immediately upon

19   receipt of the application or, if the application is received

20   before the printing of the absent voter ballots, as soon as the

21   ballots are received by the clerk, shall forward by mail, postage

22   prepaid, or shall deliver personally 1 of the ballots or set of

23   ballots if there is more than 1 kind of ballot to be voted to the

24   applicant. **If the clerk of a city or township receives an**

25   **application for an absent voter ballot from an applicant who is a**

26   **program participant, as that term is defined in the address**

27   **confidentiality program act, then the city or township clerk shall**

28   **mail an absent voter ballot to that program participant at the**

29   **designated address provided to that program participant by the**

1   **department of the attorney general under the address**

2   **confidentiality program act.** Subject to the identification

3   requirement in subsection (6), absent voter ballots may be

4   delivered to an applicant in person at the office of the clerk.

5   (2) The qualified voter file must be used to determine the

6   genuineness of a signature on an application for an absent voter

7   ballot. Signature comparisons must be made with the digitized

8   signature in the qualified voter file. If the qualified voter file

9   does not contain a digitized signature of an elector, or is not

10 accessible to the clerk, the city or township clerk shall compare

11 the signature appearing on the application for an absent voter

12 ballot to the signature contained on the master card.

13   (3) Notwithstanding section 759, providing that no absent

14 voter applications shall be received by the clerk after 2 p.m. on

15 the Saturday before the election, and subject to the identification

16 requirement in subsection (6), a person qualified to vote as an

17 absent voter may apply in person at the clerk's office before 4

18 p.m. on a day before the election except Sunday or a legal holiday

19 to vote as an absent voter. The applicant shall receive his or her

20 absent voter ballot and vote the ballot in the clerk's office. All

21 other absent voter ballots, except ballots delivered pursuant to an

22 emergency absent voter ballot application under section 759b, must

23 be mailed or delivered to the registration address of the applicant

24 unless the application requests delivery to an address outside the

25 city, village, or township or to a hospital or similar institution,

26 in which case the absent voter ballots must be mailed or delivered

27 to the address given in the application. However, a clerk may mail

28 or deliver an absent voter ballot, upon request of the absent

29 voter, to a post office box if the post office box is where the

1 absent voter normally receives personal mail and the absent voter

2 does not receive mail at his or her registration address.

3   (4) Absent voter ballots must be issued in the same order in

4 which applications are received by the clerk of a city, township,

5 or village, as nearly as may be, and each ballot issued must bear

6 the lowest number of each kind available for this purpose. However,

7 this provision does not prohibit a clerk from immediately issuing

8 an absent voter ballot to an absent voter who applies in person in

9 the clerk's office for absent voter ballots. The clerk shall

10 enclose with the ballot or ballots a return envelope properly

11 addressed to the clerk and bearing upon the back of the envelope a

12 printed statement in substantially the following form:

13   TO BE COMPLETED

14   BY THE CLERK

15

16   Name of Voter   Street Address or R.R. **or**

17   **Program Participant**

18   **Identification Number**

19

20   City, Township or Village   County

21 Ward   Precinct   Date of Election

22 ==

23   TO BE COMPLETED BY THE ABSENT VOTER

24   I assert that I am a United States citizen and a qualified and

25 registered elector of the city, township, or village named above. I

26 am voting as an absent voter in conformity with state election law.

27 Unless otherwise indicated below, I personally marked the ballot

28 enclosed in this envelope without exhibiting it to any other

29 person.

1   I further assert that this absent voter ballot is being

2   returned to the clerk or an assistant of the clerk by me

3   personally; by public postal service, express mail service, parcel

4   post service, or other common carrier; by a member of my immediate

5   family; or by a person residing in my household.

6   DATE: SIGN HERE: X

7   Signature of Absent Voter

8   The above form must be signed or your vote will not be counted.

9   AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF

10   A MISDEMEANOR.

11   ==

12   TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING

13   BY ANOTHER PERSON

14   I assisted the above named absent voter who is disabled or

15   otherwise unable to mark the ballot in marking his or her absent

16   voter ballot pursuant to his or her directions. The absent voter

17   ballot was inserted in the return envelope without being exhibited

18   to any other person.

19

20   Signature of Person   Street Address   City, Twp., or

21   Assisting Voter   or R.R.   Village

22

23   Printed Name of Person Assisting Voter

24   A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A

25   FALSE STATEMENT IS GUILTY OF A FELONY.

26   ==

27   WARNING

28   PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER

29   BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A

1 PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR

2 RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY

3 THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT IS TO

4 HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC

5 POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR

6 COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR HER

7 EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER

8 AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR

9 SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER

10 BALLOT IS GUILTY OF A FELONY.

11   (5) An absent voter who knowingly makes a false statement on

12 the absent voter ballot return envelope is guilty of a misdemeanor.

13 A person who assists an absent voter and who knowingly makes a

14 false statement on the absent voter ballot return envelope is

15 guilty of a felony.

16   (6) If an elector obtains his or her absent voter ballot in

17 person from the clerk of the city, township, or village in which he

18 or she is registered, the clerk of the city, township, or village

19 shall not provide an absent voter ballot to that elector until the

20 elector identifies himself or herself to the clerk by presenting

21 identification for election purposes. If an elector does not have

22 identification for election purposes, the elector may sign an

23 affidavit to that effect before the clerk of the city, township, or

24 village and be allowed to obtain his or her absent voter ballot in

25 person from the clerk. The clerk of the city, village, or township

26 shall indicate to each elector who is registered in that city,

27 village, or township and who obtains his or her absent voter ballot

28 in person from the clerk that the elector may sign an affidavit

29 indicating that the elector does not have identification for

1 election purposes in order to obtain his or her absent voter ballot

2 in person from the clerk. However, if an elector obtains his or her

3 absent voter ballot in person from the clerk and votes by absent

4 voter ballot without providing identification for election purposes

5 required under this subsection, the absent voter ballot of that

6 elector must be prepared as a challenged ballot as provided in

7 section 727 and must be counted as any other ballot is counted

8 unless determined otherwise by a court of law under section 747 or

9 748 or any other applicable law.

10   Enacting section 1. This amendatory act takes effect 180 days

11 after the date it is enacted into law.

12   Enacting section 2. This amendatory act does not take effect

13 unless Senate Bill No. 70

14   of the 100th Legislature is enacted into law.