Act No. 302
Public Acts of 2020
Approved by the Governor
December 29, 2020
Filed with the Secretary of State
December 29, 2020
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STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020

Introduced by Senators Barrett, Johnson, Hollier, Irwin, Chang, Wojno, Theis, Polehanki, McMorrow, Moss, Bayer and Daley

ENROLLED SENATE BILL No. 71

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 509q, 759, and 761 (MCL 168.509q, 168.759, and 168.761), section 509q as amended by 2012 PA 586 and sections 759 and 761 as amended by 2020 PA 177, and by adding sections 499b and 735a.

The People of the State of Michigan enact:

Sec. 499b. The voter registration application of an elector who is a program participant, as that term is defined in the address confidentiality program act, is confidential and not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 509q. (1) Subject to subsection (2), the qualified voter file must contain all of the following information for each qualified voter:

(a) The name; residence address including house number and street name or rural route and box number, and the apartment number, if any; city; state; zip code; and date of birth.

(b) The driver license number or state personal identification card number or similar number issued by a designated voter registration agency.

(c) Jurisdictional information including county and city or township; village, if any; metropolitan district, if any; and school district.

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

(e) Any other information that the secretary of state determines is necessary to assess the eligibility of qualified electors or to administer voter registration or other aspects of the election process.

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

(g) The most recent digitized signature of an elector if captured or reproduced by the secretary of state or a county, city, or township clerk from a voter registration application under section 509hh, or captured or reproduced by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307.

(2) If a qualified voter is a program participant, as that term is defined in the address confidentiality program act, the qualified voter file must also contain the program participant's unique identification number issued by the department of the attorney general.

(3) Except as otherwise provided in this subsection, if a qualified voter is a program participant, as that term is defined in the address confidentiality program act, the information contained in the qualified voter file for that program participant, including his or her unique identification number issued by the department of the attorney general, is confidential and not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The information contained in the qualified voter file for a program participant, as that term is defined in the address confidentiality program act, may be used by an election official during the normal course of his or her duties as an election official.

Sec. 735a. For a program participant, as that term is defined in the address confidentiality program act, any poll list or poll book created for or used at an election must only contain the name of that program participant and a notation for the precinct election inspectors to contact the city or township clerk on how to process the elector who is a program participant.

Sec. 759. (1) Subject to section 761(3), at any time during the 75 days before a primary or special primary, but not later than 8 p.m. on the day of a primary or special primary, an elector may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township or city in which the elector is registered. The clerk of a city or township shall not send by first-class mail an absent voter ballot to an elector after 5 p.m. on the Friday immediately before the election. Except as otherwise provided in section 761(2), the clerk of a city or township shall not issue an absent voter ballot to a registered elector in that city or township after 4 p.m. on the day before the election. An application received before a primary or special primary may be for either that primary only, or for that primary and the election that follows. An individual may submit a voter registration application and an absent voter ballot application at the same time if applying in person with the clerk or deputy clerk of the city or township in which the individual resides. Immediately after his or her voter registration application and absent voter ballot application are approved by the clerk or deputy clerk, the individual may, subject to the identification requirement in section 761(6), complete an absent voter ballot at the clerk's office.

(2) Except as otherwise provided in subsection (1) and subject to section 761(3), at any time during the 75 days before an election, but not later than 8 p.m. on the day of an election, an elector may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the voter is registered. The clerk of a city or township shall not send by first-class mail an absent voter ballot to an elector after 5 p.m. on the Friday immediately before the election. Except as otherwise provided in section 761(2), the clerk of a city or township shall not issue an absent voter ballot to a registered elector in that city or township after 4 p.m. on the day before the election. An individual may submit a voter registration application and an absent voter ballot application at the same time if applying in person with the clerk or deputy clerk of the city or township in which the individual resides. Immediately after his or her voter registration application and absent voter ballot application are approved by the clerk, the individual may, subject to the identification requirement in section 761(6), complete an absent voter ballot at the clerk's office.

(3) An application for an absent voter ballot under this section may be made in any of the following ways:

(a) By a written request signed by the voter.

(b) On an absent voter ballot application form provided for that purpose by the clerk of the city or township.

(c) On a federal postcard application.

(4) An applicant for an absent voter ballot shall sign the application. Subject to section 761(2), a clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person shall not be in possession of a signed absent voter ballot application except for the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant to return the application; or a clerk, assistant of the clerk, or other authorized election official. A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application.

(5) The clerk of a city or township shall have absent voter ballot application forms available in the clerk's office at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request. The absent voter ballot application must be in substantially the following form:

"Application for absent voter ballot for:

[ ] The primary or special primary election to be held on _____ (Date).

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

(Check applicable election or elections)

I, ... , a United States citizen and a qualified and registered elector of the .... precinct of the township of .... or of the .... ward of the city of .... , in the county of .... and state of Michigan, apply for an official ballot, or ballots, to be voted by me at the election or elections as requested in this application.

Send absent voter ballot to me at:

....

(Street No. or R.R. or Designated Address)

....

(Post Office)   (State)   (Zip Code)

My registered address ....

(Street No. or R.R. or Participant Identification Number)

....

(Post Office)   (State)   (Zip Code)

Date...

I certify that I am a United States citizen and that
the statements in this absent voter ballot application
are true.

....

(Signature)

WARNING

You must be a United States citizen to vote. If you are not a United States citizen, you will not be issued an absent voter ballot.

A person making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the clerk's office must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

Certificate of Authorized Registered

Elector Returning Absent Voter

Ballot Application

I certify that my name is .... , my address is .... , and my date of birth is .... ; that I am delivering the absent voter ballot application of .... at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

_____   _____

(Date)   (Signature)"

(6) The following instructions for an applicant for an absent voter ballot must be included with each application furnished an applicant:

INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you may not receive an absent voter ballot.

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

(a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the application personally to the clerk's office, to the clerk, or to an authorized assistant of the clerk.

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

(d) If an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application.

(7) A person who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section.

(8) A person who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. A person who forges a signature on an absent voter ballot application is guilty of a felony. A person who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

(9) The absent voter ballot application of an elector who is a program participant, as that term is defined in the address confidentiality program act, is confidential and not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 761. (1) If the clerk of a city or township receives an application for an absent voter ballot from a person registered to vote in that city or township and if the signature on the application agrees with the signature for the person contained in the qualified voter file or on the registration card as required in subsection (2), the clerk immediately upon receipt of the application or, if the application is received before the printing of the absent voter ballots, as soon as the ballots are received by the clerk, shall forward by mail, postage prepaid, or shall deliver personally 1 of the ballots or set of ballots if there is more than 1 kind of ballot to be voted to the applicant. If the clerk of a city or township receives an application for an absent voter ballot from an applicant who is a program participant, as that term is defined in the address confidentiality program act, then the city or township clerk shall mail an absent voter ballot to that program participant at the designated address provided to that program participant by the department of the attorney general under the address confidentiality program act. Subject to the identification requirement in subsection (6), absent voter ballots may be delivered to an applicant in person at the office of the clerk.

(2) The qualified voter file must be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons must be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on the application for an absent voter ballot to the signature contained on the master card. If before 8 p.m. on the day before election day the clerk of a city or township rejects an absent voter ballot application because the signature on the absent voter ballot application does not agree sufficiently with the signature on the master card or the digitized signature contained in the qualified voter file so as to identify the elector or because the elector failed to sign the absent voter ballot application, the city or township clerk shall as soon as practicable, but in no event later than 48 hours after determining the signatures do not agree sufficiently or that the signature is missing, or by 8 p.m. on the day before election day, whichever occurs first, notify the elector of the rejection by mail, telephone, or electronic mail.

(3) Subject to the identification requirement in subsection (6) and except as otherwise provided in this subsection, a person may apply in person at the clerk's office before 8 p.m. on election day to vote as an absent voter. Except as otherwise provided in subsection (2), only an individual who is not a registered elector, or an individual who is not registered to vote in the city or township in which he or she is registering to vote, and who registers to vote on election day in person with the clerk of the city or township in which the individual resides may apply for and complete an absent voter ballot in person at the clerk's office on election day. Except as otherwise provided in subsection (2), the clerk of a city or township shall not issue an absent voter ballot to a registered elector in that city or township after 4 p.m. on the day before the election. The applicant shall receive his or her absent voter ballot and vote the ballot in the clerk's office. All other absent voter ballots, except ballots delivered pursuant to an emergency absent voter ballot application under section 759b, must be mailed or delivered to the registration address of the applicant unless the application requests delivery to an address outside the city or township or to a hospital or similar institution, in which case the absent voter ballots must be mailed or delivered to the address given in the application. However, a clerk may mail or deliver an absent voter ballot, upon request of the absent voter, to a post office box if the post office box is where the absent voter normally receives personal mail and the absent voter does not receive mail at his or her registration address.

(4) Absent voter ballots must be issued in the same order in which applications are received by the clerk of a city, township, or village, as nearly as may be, and each ballot issued must bear the lowest number of each kind

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available for this purpose. However, this provision does not prohibit a clerk from immediately issuing an absent voter ballot to an absent voter who applies in person in the clerk's office for absent voter ballots. The clerk shall enclose with the ballot or ballots a return envelope properly addressed to the clerk and bearing upon the back of the envelope a printed statement in substantially the following form:

<div align="center">

TO BE COMPLETED

BY THE CLERK

</div>

_____   _____

Name of Voter   Street Address or R.R. or Program Participant
Identification Number

_____   _____

City or Township   County

    Ward _____   Precinct _____   Date of Election _____

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<div align="center">

TO BE COMPLETED BY THE ABSENT VOTER

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    I assert that I am a United States citizen and a qualified and registered elector of the city or township named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person.

    I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

        DATE: _____   SIGN HERE: X_____

                                                    Signature of Absent Voter

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

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<div align="center">

TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING

BY ANOTHER PERSON

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

_____   _____   _____

Signature of Person   Street Address   City or Township
Assisting Voter   or R.R.

_____

Printed Name of Person Assisting Voter

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

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<div align="center">

<u>WARNING</u>

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    PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY OR TOWNSHIP. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

    (5) An absent voter who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a misdemeanor. A person who assists an absent voter and who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a felony.
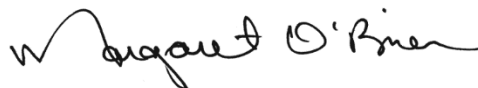
    (6) If an elector obtains his or her absent voter ballot in person from the clerk of the city or township in which he or she is registered, the clerk of the city or township shall not provide an absent voter ballot to that elector until the elector identifies himself or herself to the clerk by presenting identification for election purposes. If an

elector does not have identification for election purposes, the elector may sign an affidavit to that effect before the clerk of the city or township and be allowed to obtain his or her absent voter ballot in person from the clerk. The clerk of the city or township shall indicate to each elector who is registered in that city or township and who obtains his or her absent voter ballot in person from the clerk that the elector may sign an affidavit indicating that the elector does not have identification for election purposes in order to obtain his or her absent voter ballot in person from the clerk. However, if an elector obtains his or her absent voter ballot in person from the clerk and votes by absent voter ballot without providing identification for election purposes required under this subsection, the absent voter ballot of that elector must be prepared as a challenged ballot as provided in section 727 and must be counted as any other ballot is counted unless determined otherwise by a court of law under section 747 or 748 or any other applicable law.

Enacting section 1. This amendatory act takes effect 180 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 70 of the 100th Legislature is enacted into law.

This act is ordered to take immediate effect.

_____
Secretary of the Senate

_____
Clerk of the House of Representatives

Approved_____

_____
Governor