

REQUIRE PROOF OF CITIZENSHIP FOR VOTER REGISTRATION AND PHOTO ID TO VOTE

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House Joint Resolution B as introduced
Sponsor: Rep. Bryan Posthumus
Committee: Election Integrity
Revised 3-10-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Joint Resolution B would amend sections 1 and 4 of Article II of the state constitution to require individuals to verify that they are United States citizens when registering to vote and to generally require voters to provide photo ID when voting in person or casting an absentee ballot. The joint resolution also would require the secretary of state (SOS) to individually verify citizenship during automatic voter registrations and undertake an ongoing process to verify the citizenship of already-registered voters.

Require verification of citizenship for voter registration

Currently, under section 1 of Article II, every citizen of the United States who is of legal voting age,¹ has resided in Michigan for at least six months, and meets any applicable local residency requirements is qualified to vote in any election. House Joint Resolution B would amend section 1 to additionally state that an individual who is not a United States citizen is not qualified to vote in any election.

Under HJR B, individuals registering to vote after December 18, 2026, would have to either have their citizenship verified by the SOS or present documentary proof of citizenship at the time of registration to an election official or voter registration agency (such as an SOS branch office) or to the SOS or their county, city, or township clerk at a later date.

For each of those individuals, the qualified voter file (QVF) would have to indicate whether their citizenship has been verified, and each voter registration list used in a polling place would have to be generated from and consistent with the QVF.

Individuals who register to vote after December 18, 2026, would be able to vote a regular in-person or absentee ballot if their citizenship has been verified before they apply to vote. Otherwise, the individual could only vote a provisional ballot,² which could be tabulated if their citizenship is verified on or before the sixth day after the election.

Systematic verification process and individualized review

Except during the 90 days before a federal election,³ the SOS would have to use an ongoing systematic process to verify that each individual in the QVF is a United States citizen. In doing

¹ Section 1 currently applies to citizens who are at least 21 years of age, which HJR B would amend to reference those who are at least 18 years old in accordance with the Twenty-Sixth Amendment to the U.S. Constitution.

² Provisional ballots are not immediately tabulated at a polling place or early voting site and may only be tabulated and counted once the individual's eligibility to vote has been verified.

³ Section 8 of the National Voter Registration Act (<https://www.law.cornell.edu/uscode/text/52/20507>) requires states to complete any systematic programs to remove ineligible individuals from voter rolls by the ninetieth day before an election.

so, the SOS would have to use all reasonable efforts to obtain information regarding an individual's citizenship status, including at least submitting verification requests to a federal department or agency to verify the citizenship status of individuals to the fullest extent allowed under federal law. The SOS could also conduct individualized reviews of the citizenship status of any individual in the QVF using those same reasonable efforts.

Within seven days after obtaining information indicating that an individual listed in the QVF is not a United States citizen, the SOS would have to notify that individual in writing. If the individual does not respond or verify their citizenship within 60 days, they would no longer be registered to vote and would be immediately removed from the QVF. An individual who has been removed from the QVF as a result of a systematic or individualized review would not be prohibited from applying to re-register to vote.

In addition, the SOS would be required to conduct an individualized review of an individual's citizenship status before automatically registering them to vote (see **Background**, below) and could not automatically register an individual upon obtaining information from the review indicating that the individual is not a United States citizen.

Report

By January 31 of each year, the SOS would have to submit a report to each member of the legislature that summarizes the results of the systematic verification process and the individualized reviews. The report would also have to include the number of individuals who appear in the QVF, the number of individuals removed from the QVF, the number of individuals who were automatically registered to vote after conducting business with the SOS regarding a driver's license or personal ID card, and the number of individuals who the SOS did not automatically register to vote after reviewing their citizenship status.

Implementation

The above provisions would be implemented to the maximum extent permitted by federal law and the United States Constitution.

Article II voting rights

Section 4 of Article II currently enumerates the following rights for every citizen of the United States who is qualified to vote in Michigan:

- A fundamental right to vote, including the right to a secret ballot.
- Timely distribution of absentee ballots to military personnel or those living overseas, and the counting of those ballots if postmarked on or before election day and received within six days of election day.
- Straight-party voting.
- Automatic voter registration vote as a result of conducting business with the SOS regarding a driver's license or personal identification card.
- Registration by mail up to 15 days before an election.
- In-person registration through election day with proof of residency.
- Use of a photo ID or a signed affidavit to verify voter identity when voting or applying for an absentee ballot in person.
- No-reason absentee voting, including the use of a signature to verify voter identity when applying for or casting an absentee ballot by mail.
- Prepaid ballot postage and a state-funded ballot tracking notification system.

- Access to ballot drop boxes.
- Placement on a permanent absentee voter list.
- Statewide audit of election results.
- Use of an early voting site for statewide and federal elections up to nine days before election day.

HJR B would make these rights subject to section 1 of Article II and the related citizenship requirement. In addition, for individuals who register to vote after December 18, 2026, the following rights would be recognized only once their citizenship has been verified:

- The fundamental right to vote in all elections.
- The right to straight-party voting.
- The right to prove their identity by presenting their photo ID or executing an affidavit.
- The right to no-reason absentee voting.
- The right to be placed on a permanent absentee voter list.
- The right to vote in each statewide and federal election at an early voting site.

Require provisional ballots for voters without photo ID

As described above, all United States citizens who are qualified and registered to vote in Michigan have the right to prove their identity when voting or applying for an absentee ballot in person by either providing a photo ID or signing an affidavit verifying their identity.⁴ The state constitution currently prohibits election officials from requiring a voter to cast a provisional ballot if the voter executes an affidavit instead of providing a photo ID.

Under HJR B, those voters *would* be required to vote a provisional ballot, which could only be tabulated if the individual presents photo identification on or before the sixth day after the election.

Require additional identification for absentee voter identity verification

Michigan voters also currently have the right to prove their identity when applying for or casting an absentee ballot without doing so in person by providing their signature to an authorized election official.⁵ The election official must then verify the signature and notify the voter if the signature does not sufficiently match what is on file in that voter's registration record. Voters have the right to an immediate notification of a signature issue and the right to be afforded due process and an equitable opportunity to correct the issue.

HJR B would require individuals who are applying for or returning an absentee ballot without doing so in person to additionally provide an original or copy of ***identification for election purposes***, their driver's license number, their official state personal identification card number, or the last four digits of their Social Security number, which would have to be verified by an election official.⁶

⁴ This right was placed into the state constitution by Proposal 2 of 2022. For a full summary of the proposal, see: https://www.house.mi.gov/hfa/PDF/Alpha/Ballot_Proposal_2_of_2022.pdf.

⁵ This right was placed into the state constitution by Proposal 22-2.

⁶ As described above, voters have the right to be notified of and correct an issue with a missing or nonmatching signature on an absentee ballot application or return envelope. HJR B would not provide for a similar notification and cure process if the identification information cannot be verified.

HJR B would require the legislature to define *identification for election purposes*, which could only include types of identification issued by a federal, state, local, or tribal government or an educational institution.⁷

The legislature would have to create, by law, a process for an individual to claim a hardship in paying a fee for obtaining identification for election purposes, and those individuals would have to be able to obtain a form of identification for election purposes for free.

Same-day voter registration and ballot receipt

Currently, every United States citizen who is qualified to vote in Michigan has the right to register in person through election day and become immediately eligible to receive a ballot. HJR B would provide that after December 18, 2026, an individual who registers in person to vote whose citizenship has been verified is also immediately eligible to receive a ballot.

Effectiveness

To amend the constitution, a joint resolution must be adopted by a two-thirds majority of each house of the legislature and then approved by the electorate at the next general election after the adoption of the resolution. General elections are held in November of even-numbered years.

BACKGROUND:

Citizenship requirements for voting

The Michigan Election Law requires an individual to be a citizen of the United States to register or preregister to vote.⁸ The act does not require proof of citizenship for voter registration. Instead, when registering to vote, applying for an absentee ballot, receiving a ballot at a polling place, or returning an absentee ballot in Michigan, an individual must attest under penalty of perjury that they are a citizen of the United States. In addition, absentee ballot applications must include a warning stating that voters must be United States citizens and noncitizens will not be issued an absentee ballot.

Under section 933 of the Michigan Election Law, a person who makes a false affidavit or lies under oath to register or vote is guilty of perjury, punishable by a fine of up to \$1,000, up to five years' imprisonment, or both. Section 932a(c) of the Michigan Election Law provides that a person who is not a qualified and registered elector who willfully offers to vote or attempts to vote at an election in Michigan is guilty of a felony, punishable by a fine of up to \$2,000, up to four years' imprisonment, or both.⁹

⁷ The current definition of *identification for election purposes* under the Michigan Election Law would satisfy this provision. See: <https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-2-amended>.

⁸ <https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-492> (registration) and <https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-496A> (preregistration)

⁹ In October 2024, a University of Michigan student was alleged to have voted at an early voting site in Ann Arbor despite not being a citizen of the United States. Reportedly, the student falsely certified that they were a United States citizen when registering to vote, and their ballot was counted because it could not be identified and separated after going through a tabulator. The individual has been charged with perjury and attempting to vote without being a qualified elector. <https://www.detroitnews.com/story/news/politics/elections/2024/10/30/chinese-university-of-michigan-college-student-voted-presidential-election-michigan-china-benson/75936701007/>

Noncitizens are prohibited from voting in federal elections under the Illegal Immigration Reform and Immigrant Responsibility Act.¹⁰ While federal law does not explicitly prohibit noncitizens from voting in state and local elections, states' default practice is generally to extend this requirement to all elections.¹¹

According to the National Conference of State Legislatures (NCSL), 14 states have amended their constitutions to explicitly state that only United States citizens can vote.¹² Additionally, Alabama, Arizona, Georgia, Indiana, Kansas,¹³ Louisiana, New Hampshire, and Tennessee all require proof of citizenship for voter registration. Arizona has a bifurcated voter registration system, where registrants who provide documentary proof of citizenship are able to vote in all federal, state, and local elections, and those who attest under penalty of perjury that they are a United States citizen but have not yet provided documentary proof are only eligible to vote in federal races.¹⁴ These "federal only" voters become eligible to vote in all other elections once they provide proof of citizenship. Arizona currently has 43,000 federal only voters.¹⁵

Photo ID laws

According to the NCSL, as of April 2024, nine states require voters to either provide photo ID or cast a provisional ballot and later present photo ID to an election official: Arkansas, Georgia, Indiana, Kansas, Mississippi, North Carolina, Ohio, Tennessee, and Wisconsin.¹⁶ The states of Alabama, Florida, Missouri, Montana, Nebraska, Rhode Island, and South Carolina also require voters who do not provide photo ID to cast a provisional ballot, but election officials in those states generally determine whether that ballot will be counted without any further action from the voter.¹⁷

Automatic voter registration

Currently, the Michigan Election Law requires the SOS to automatically register all qualified electors who submit applications or change of address applications for driver's licenses or state personal ID cards (or enhanced versions of those forms of ID) to vote, as long as the elector does not opt out of registration during the interaction. The SOS can only register applicants who indicate on the form that they are citizens of the United States.

¹⁰ <https://www.law.cornell.edu/uscode/text/18/611>

¹¹ <https://www.ncsl.org/elections-and-campaigns/legislative-approaches-to-ensuring-only-citizens-vote>

¹² These states are Alabama, Arizona, Colorado, Florida, Idaho, Iowa, Kentucky, Louisiana, Missouri, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, and Wisconsin. All states except Colorado, Florida, and North Dakota advanced these initiatives to the ballot by legislative referral. See: <https://www.ncsl.org/elections-and-campaigns/legislative-approaches-to-ensuring-only-citizens-vote>.

¹³ In 2020, the U.S. Court of Appeals for the Tenth Circuit ruled that Kansas's documentary proof of citizenship law unconstitutionally burdened the right to vote and was preempted by section 5 of the National Voter Registration Act, which provides that voter registration applications can require only the minimum amount of information necessary for election officials to assess voter eligibility and perform registration duties. The Tenth Circuit comprises Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming. See:

<https://www.ca10.uscourts.gov/sites/ca10/files/opinions/010110340452.pdf>.

¹⁴ <https://azsos.gov/elections/voters/registration-requirements>

¹⁵ <https://www.ncsl.org/elections-and-campaigns/legislative-approaches-to-ensuring-only-citizens-vote>

¹⁶ See: <https://www.ncsl.org/elections-and-campaigns/voter-id>.

¹⁷ In addition, in February 2025, the Maine Secretary of State certified that an initiative petition to require voters to present photo ID when voting in person or returning an absentee ballot (among other voting-related changes) had received enough signatures to go before the legislature and be placed on the November 2025 ballot if the legislature does not approve the petition. <https://www.maine.gov/sos/news/2025/CitizenInitiativeFoundValid.html>

Beginning June 30, 2025, the SOS will automatically register and notify each individual who applies for a Michigan-issued driver's license, applies for a state ID card, or is issued a graduated license if they are of sufficient age to register to vote, provide documentation demonstrating their United States citizenship, and are not already registered.¹⁸

While the SOS cannot register or preregister any individual who provides documentation demonstrating that they are not a United States citizen, the Michigan Election Law currently does not require proof of citizenship for voter registration. Each individual who indicates that they are a United States citizen on their driver's license or state ID card application without providing proof of documentation can be automatically registered. Beginning June 30, 2025, the QVF will have to designate whether an automatically registered individual has indicated their citizenship without providing documentation.

FISCAL IMPACT:

House Joint Resolution B would likely result in additional costs to the Department of State's Bureau of Elections (BOE) as well as municipal clerk's offices.

The BOE would be required to conduct annual systematic reviews of the QVF information system to verify the citizenship status of each individual in the system. This process would include "submitting requests to a department or agency of the federal government to verify the citizenship status of individuals," among other responsibilities. If existing BOE staff is not sufficient to support any additional administrative responsibilities, the department may require additional employees.

Potential changes to the QVF to incorporate additional information on individual voters could also entail costs related to information technology programming services.

The resolution's requirement to verify documentation may also entail increases in personnel hours, paid wages, or FTE counts in city and township clerk's offices. The state's election systems and processes have changed dramatically in recent years, adding considerable responsibilities for clerk's offices and their existing staff. Many offices are working at capacity and may be unable to absorb additional responsibilities with existing staff. The resolution may, therefore, result in some local offices incurring the expense of hiring additional staff or adding staff hours.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

¹⁸ Under the new system, individuals will be notified and given the opportunity to opt out after the SOS processes the automatic registration, rather than during the transaction as is currently done. The SOS will preregister eligible individuals under the same procedure.