

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.799a Recounting punched, marked, or stamped ballot; procedure; stray marks; releasing sealed materials.

Sec. 799a. (1) This section governs the recounting of a ballot on which a voter has made a selection by means of a punch, mark, or stamp.

(2) If the electronic voting system requires that the elector cast a vote by punching out a hole in a ballot, the vote shall not be considered valid unless the portion of the ballot designated as a voting position is completely removed or is hanging by 1 or 2 corners or the equivalent.

(3) If the electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark subject to recount with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

(4) Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.

History: Add. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

Compiler's note: Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____
No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.