

SUBSTITUTE FOR
HOUSE BILL NO. 5288

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 759 (MCL 168.759), as amended by 2020 PA 302.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 759. (1) Subject to section 761(3), at any time during
2 the 75 days before a primary or special primary, but not later than
3 8 p.m. on the day of a primary or special primary, an elector may
4 apply for an absent voter ballot. The elector shall apply in person
5 or **in writing** by mail, **email, or facsimile** with the clerk of the
6 township or city in which the elector is registered. **An absent**
7 **voter ballot application must not be sent out or made available to**
8 **an elector more than 75 days before an election.** The clerk of a
9 city or township shall not send by first-class mail an absent voter

1 ballot to an elector after 5 p.m. on the Friday immediately before
2 the election. Except as otherwise provided in section 761(2), the
3 clerk of a city or township shall not issue an absent voter ballot
4 to a registered elector in that city or township after 4 p.m. on
5 the day before the election. An application received before a
6 primary or special primary may be for either that primary only, or
7 for that primary and the election that follows. An individual may
8 submit a voter registration application and an absent voter ballot
9 application at the same time if applying in person with the clerk
10 or deputy clerk of the city or township in which the individual
11 resides. Immediately after his or her voter registration
12 application and absent voter ballot application are approved by the
13 clerk or deputy clerk, the individual may, subject to the
14 identification requirement in section 761(6), complete an absent
15 voter ballot at the clerk's office.

16 (2) Except as otherwise provided in subsection (1) and subject
17 to section 761(3), at any time during the 75 days before an
18 election, but not later than 8 p.m. on the day of an election, an
19 elector may apply for an absent voter ballot. The elector shall
20 apply in person or **in writing** by mail, **email**, or **facsimile** with the
21 clerk of the township ~~, or city, or village~~ in which the voter is
22 registered. **An absent voter ballot application must not be sent out**
23 **or made available to an elector more than 75 days before an**
24 **election.** The clerk of a city or township shall not send by first-
25 class mail an absent voter ballot to an elector after 5 p.m. on the
26 Friday immediately before the election. Except as otherwise
27 provided in section 761(2), the clerk of a city or township shall
28 not issue an absent voter ballot to a registered elector in that
29 city or township after 4 p.m. on the day before the election. An

1 individual may submit a voter registration application and an
2 absent voter ballot application at the same time if applying in
3 person with the clerk or deputy clerk of the city or township in
4 which the individual resides. Immediately after his or her voter
5 registration application and absent voter ballot application are
6 approved by the clerk, the individual may, subject to the
7 identification requirement in section 761(6), complete an absent
8 voter ballot at the clerk's office.

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

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

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

14 (c) On a federal postcard application.

15 (4) An applicant for an absent voter ballot ~~shall~~**must**
16 **physically** sign the application. **An applicant for an absent voter**
17 **ballot is not authorized to use a digital or electronic signature**
18 **to sign the application. The secretary of state, a county, city, or**
19 **township clerk, an organization, and any individual employed by,**
20 **contracted by, or associated with an organization, is not**
21 **authorized to provide an online absent voter ballot application**
22 **that does not require the applicant to physically sign the**
23 **application.** Subject to section 761(2), a clerk or assistant clerk
24 shall not deliver an absent voter ballot to an applicant who does
25 not **physically** sign the application. A person shall not be in
26 possession of a signed absent voter ballot application except for
27 the applicant; a member of the applicant's immediate family; a
28 person residing in the applicant's household; a person whose job
29 normally includes the handling of mail, but only during the course

1 of his or her employment; a registered elector requested by the
2 applicant to return the application; or a clerk, assistant of the
3 clerk, or other authorized election official. A registered elector
4 who is requested by the applicant to return his or her absent voter
5 ballot application ~~shall~~ **must physically** sign the certificate on
6 the absent voter ballot application.

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

12 "Application for absent voter ballot for:

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

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

16 (Check applicable election or elections)

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

24 Send absent voter ballot to me at:

25
26 (Street No. or R.R. or Designated Address)

27
28 (Post Office) (State) (Zip Code)

29 My registered address

1 (Street No. or R.R. or Participant
 2 Identification Number)
 3
 4 (Post Office) (State) (Zip Code)
 5 Date.....

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

9
 10 (Signature)

11 WARNING

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

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

26 Certificate of Authorized Registered
 27 Elector Returning Absent Voter
 28 Ballot Application
 29

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

10 _____
 11 (Date) (Signature)"

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

15 INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

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

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

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

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

28 (c) In either (a) or (b), a member of the immediate family of
 29 the voter including a father-in-law, mother-in-law, brother-in-law,

1 sister-in-law, son-in-law, daughter-in-law, grandparent, or
2 grandchild or a person residing in the voter's household may mail
3 or deliver the application to the clerk for the applicant.

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

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

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

20 (9) The absent voter ballot application of an elector who is a
21 program participant, as that term is defined in **section 3 of** the
22 address confidentiality program act, **2020 PA 301, MCL 780.853**, is
23 confidential and not subject to disclosure under the freedom of
24 information act, 1976 PA 442, MCL 15.231 to 15.246.