

Act No. 92
Public Acts of 2004
Approved by the Governor
April 26, 2004
Filed with the Secretary of State
April 26, 2004
EFFECTIVE DATE: April 26, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senator Hammerstrom

ENROLLED SENATE BILL No. 432

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 73, 283, 393, 499, 509m, 509n, 509t, 509aa, 662, 727, 735, 795, 798c, 799a, 803, and 842 (MCL 168.73, 168.283, 168.393, 168.499, 168.509m, 168.509n, 168.509t, 168.509aa, 168.662, 168.727, 168.735, 168.795, 168.798c, 168.799a, 168.803, and 168.842), sections 73, 283, and 393 as amended by 1999 PA 216, section 499 as amended by 1995 PA 213, sections 509m and 509aa as added by 1994 PA 441, section 509n as amended by 2003 PA 302, section 509t as amended by 1998 PA 21, section 662 as amended by 2004 PA 13, section 727 as amended by 1995 PA 261, section 795 as amended by 2002 PA 91, section 798c as amended by 1990 PA 109, and sections 799a and 803 as amended by 1997 PA 137, and by adding sections 18, 523a, 813, and 829; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 18. As used in this act:

- (a) "Help America vote act of 2002" means the help America vote act of 2002, 42 USC 15301 to 15545.
- (b) "National voter registration act of 1993" means the national voter registration act of 1993, 42 USC 1973gg to 1973gg-10.
- (c) "Uniformed and overseas citizens absentee voting act" means the uniformed and overseas citizens absentee voting act, 42 USC 1973ff to 1973ff-6.
- (d) "Voting accessibility for the elderly and handicapped act" means the voting accessibility for the elderly and handicapped act, 42 USC 1973ee to 1973ee-6.
- (e) "Voting rights act of 1965" means the voting rights act of 1965, 42 USC 1973 to 1973aa-6.

Sec. 73. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention for the offices of lieutenant governor, secretary of state, and attorney general. Not more than 1 business day after the conclusion of the convention, the chairperson and secretary of the state central committee shall forward to the secretary

of state a typewritten or printed list of the names and residence, including the street address if known, of candidates nominated at the state convention. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

Sec. 283. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention for membership on the state board of education, the board of regents of the university of Michigan, the board of trustees of Michigan state university, and the board of governors of Wayne state university. Not more than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state a copy of the vignette adopted by the state central committee and a typewritten or printed list of the names and residence, including the street address if known, of the candidates nominated at the convention for the offices specified in this section. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

Sec. 393. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall convene and canvass the proceedings of the convention and determine the nominee or nominees of the convention for the office or offices of justice of the supreme court. Not more than 1 business day after the conclusion of the state convention, the chairperson and secretary of the state central committee shall forward by registered or certified mail to the secretary of state a typewritten or printed list of the names and residence, including the street address if known, of the candidate or candidates nominated at the convention for the office or offices of justice of the supreme court. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat. The name of each nominee on the list shall be printed upon a nonpartisan judicial ballot containing no party designation together with the names of incumbent justices filing an affidavit under section 392a.

Sec. 499. (1) An elector entitled to registration in an election precinct may become registered in the precinct by applying in person and signing the registration application before the clerk or assistant clerk of the township, city, or village in which the precinct is located. For the performance of his or her duties under this act, each clerk and assistant clerk has the power to administer oaths and to swear persons as to the truth of statements contained in an application. For a better examination of the applicant, a clerk may employ and swear an interpreter to interpret all questions put to applicants and the answers to those questions. If the applicant, in answer to a question or in the registration application, makes a material statement that is false, the applicant is guilty of a misdemeanor.

(2) A clerk or assistant clerk shall not accept a fee from an elector applying for registration, either for the registering of the elector or for the taking of the acknowledgment on the application. A person who violates this subsection is guilty of a misdemeanor.

(3) The clerk, immediately after receiving the registration or change of address of an elector, shall prepare a voter identification card for the elector. The clerk shall also prepare and send a corrected voter identification card to an elector affected by a change in United States representative, state senatorial, state representative, or county commissioner district or precinct. The clerk shall forward by first-class mail the voter identification card to the elector at the elector's registration address. The voter identification card shall contain the name and address of the registrant and the United States representative, state senatorial, state representative, or county commissioner district and precinct in which the registrant is an elector. If the original voter identification card is returned to the clerk by the post office as nondeliverable, the clerk shall reject the registration and send the individual a notice of rejection. If a duplicate voter identification card is returned to the clerk by the post office, the clerk shall accept this as information that the elector has moved and the clerk shall proceed in conformity with section 509aa.

Sec. 509m. (1) The purposes of this section and sections 509n to 509gg are all of the following:

(a) To establish a statewide qualified voter file that consists of all qualified electors who wish to be registered to vote in local, state, and federal elections.

(b) To enhance the uniformity of the administration of elections by creating and maintaining a statewide file of qualified voters.

(c) To increase the efficiency and decrease the public cost of maintaining voter registration files and implementing the national voter registration act of 1993.

(d) To increase the integrity of the voting process by creating a single qualified voter file that will permit the name of each citizen of this state to appear only once and that is compiled from other state files that require citizens to verify their identity and residence.

(e) To apply technology and information gathered by principal executive departments, state agencies, and county, city, township, and village clerks in a manner that ensures that accurate and current records of qualified voters are maintained.

(2) As used in sections 509n to 509gg:

(a) "Designated voter registration agency" means an office designated under section 509u to perform voter registration activities in this state.

(b) "Qualified voter file" means the statewide qualified voter file established according to section 509o.

Sec. 509n. The secretary of state is responsible for the coordination of the requirements imposed under this chapter, the national voter registration act of 1993, and the help America vote act of 2002. The secretary of state shall do all of the following:

(a) Develop a mail registration form and make the form available for distribution through governmental and private entities, with special emphasis on making the form available to voter registration programs established for the purpose of registering citizens of this state to vote.

(b) Instruct designated voter registration agencies and county, city, township, and village clerks about the voter registration procedures and requirements imposed by law.

(c) By June 15 of each odd numbered year, submit to each member of the committees of the senate and house of representatives with primary responsibility for election matters a report on the qualified voter file. The report shall include, but need not be limited to, both of the following:

(i) Information on the efficiency and effectiveness of the qualified voter file as a voter registration system.

(ii) Recommendations of the secretary of state for amendments to this act to increase the efficiency and effectiveness of the qualified voter file as a voter registration system.

Sec. 509t. (1) Notwithstanding another provision of law to the contrary, a person who is a qualified elector in this state and who registers to vote in a manner consistent with the national voter registration act of 1993 is considered a registered voter under this act.

(2) A person who registers to vote in a jurisdiction in this state by mail shall vote in person and shall provide identification as required under section 303(b) of the help America vote act of 2002, 42 USC 15483, if that person has not previously voted in person in this state. This subsection does not apply to any of the following registered voters:

(a) A person entitled to vote by absentee ballot under the uniformed and overseas citizens absentee voting act.

(b) A person who has a disability as defined in section 103 of the persons with disabilities civil rights act, 1976 PA 220, MCL 37.1103, or, for purposes of voting in person only, a person who is 60 years of age or older.

(c) A person who is entitled to vote other than in person under any other federal law.

(3) This section does not preclude this state from prosecuting a violation of this act that is also a violation of a federal election or voting rights law.

Sec. 509aa. (1) A clerk may use change of address information supplied by the United States postal service or other reliable information received by the clerk that identifies registered voters whose addresses may have changed as provided in this section.

(2) Upon receipt of reliable information that a registered voter has moved his or her residence within the city or township, the clerk shall send by forwardable mail all of the following to the voter:

(a) A notice that the clerk has received information indicating that the voter has moved his or her residence within the city or township.

(b) A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.

(c) A notice explaining that, if the address information is correct and the voter has moved his or her residence within the city or township, the voter should complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election. If the voter has moved his or her residence within the city or township and does not complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election, the voter will be required to vote in his or her former precinct of residence in the city or township. The voter will also be required to submit an address correction before being permitted to vote.

(3) Upon the receipt of reliable information that a registered voter has moved his or her residence to another city or township, the clerk shall send by forwardable mail all of the following to the voter:

(a) A notice that the clerk has received information indicating that the voter has moved his or her residence to another city or township.

(b) A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.

(c) A notice containing all of the following information:

(i) If the address information is incorrect and the voter has not moved to another city or township and wishes to remain registered to vote, the voter should complete and return the card to the clerk with a postmark of 30 days or more before the date of the next election. If the card is not completed and returned with a postmark of 30 days or more before the date of the next election, the voter may be required to affirm his or her current address before being permitted to vote. Further, if the voter does not vote in an election within the period beginning on the date of the notice and ending on the first business day immediately following the second November general election that is held after the date on the notice, the registration of the voter will be canceled and his or her name will be removed from the registration record of that city or township.

(ii) If the voter has moved his or her residence to another city or township, information on how the voter can become registered to vote at the next election in his or her new city or township.

(4) If a notice sent under this section is returned to the clerk by the post office as undeliverable, the clerk shall identify the registration record of a voter as challenged as provided in this act. The clerk shall instruct the board of election inspectors to challenge that voter at the first election at which the voter appears to vote. If in response to the challenge the voter indicates that he or she resides at the registration address or has changed addresses within the city or township, the voter shall be permitted to vote a regular ballot rather than a challenged ballot. The voter shall complete a change of address form at the polling place, if applicable. If the person does not appear to vote in an election within the period beginning on the date of the notice and ending on the first business day immediately following the second November general election that is held after the date of the notice, the clerk shall cancel the registration of the voter and remove his or her name from the registration record of the city or township.

Sec. 523a. (1) If an individual who has applied to register to vote on or before the close of registration appears at a polling place on election day and completes an application under section 523 is not listed on the voter registration list, the election inspector shall issue a ballot to the individual as follows:

(a) For an individual who presents a receipt issued by a department of state office, a designated voter registration agency, or the elector's county, city, or township clerk's office verifying the acceptance of a voter registration application before the close of registration and completes a new voter registration application, the election inspector shall allow the individual to vote a ballot in the same manner as an elector whose name is listed on the voter registration list.

(b) For an individual who does not present a receipt verifying the acceptance of a voter registration application under subdivision (a), the election inspector shall determine whether the individual is in the appropriate polling place based on residence information provided by the individual. The election inspector shall review any documents or maps in the polling place or communicate with the city or township clerk to verify the appropriate polling place for the individual. The election inspector shall direct an individual who is not in the appropriate polling place to the appropriate polling place. If the individual refuses to go to the appropriate polling place, the election inspector shall issue the individual a provisional ballot that shall be processed according to subsection (5).

(2) Except for an individual who produces a receipt under subsection (1)(a), the election inspector shall require an individual who is not listed on the voter registration list to execute a sworn statement affirming that the individual submitted a voter registration application before the close of registration and is eligible to vote in the election. An individual who provides false information in a signed sworn statement under this subsection is guilty of perjury. An individual signing a sworn statement shall complete a new voter registration application. The individual shall state the approximate date and in what manner the registration application was submitted:

- (a) To a department of state office.
- (b) To a designated voter registration agency.
- (c) To the office of his or her county, city, or township clerk.
- (d) By a mailed application.

(3) The election inspector shall contact the city or township clerk to verify whether the individual who signed the sworn statement is listed in the registration records of the jurisdiction or whether there is any information contrary to the content of the sworn statement.

(4) If the city or township clerk verifies the elector information and finds no information contrary to the information provided by the individual in the sworn statement and the individual presents a Michigan operator's or chauffeur's license, department of state issued personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that contains a current residence address to establish his or her identity and residence address, the individual shall be permitted to vote a provisional ballot on election day. Before the provisional ballot is tabulated on election day, election inspectors shall process the ballot as a challenged ballot under sections 745 and 746.

(5) If the election inspector is not able to contact the city or township clerk, the individual is not in the correct precinct, the individual presents identification other than a Michigan operator's or chauffeur's license, department of state issued personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that contains a current residence address, or the individual is unable to present any identification, the individual shall be issued a provisional ballot that is not tabulated on election day but is secured for verification after the election. A provisional ballot shall also be issued under this subsection to a voter who presents a Michigan operator's license, chauffeur's license, department of state personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that does not bear the voter's current residence address, if the voter also presents a document to establish the voter's current residence address. The election inspector shall accept a document containing the name and current residence address of the voter as sufficient documentation to issue a provisional ballot if it is 1 of the following documents:

- (a) A current utility bill.
- (b) A current bank statement.
- (c) A current paycheck, government check, or other government document.

(6) A provisional ballot shall be placed in a provisional ballot return envelope prescribed by the secretary of state and delivered to the city or township clerk after the polls close in a manner as prescribed by the secretary of state.

(7) For a provisional ballot voted under subsection (4), the election inspector shall provide the voter with a notice that his or her ballot has been tabulated. For a provisional ballot voted under subsection (5), the election inspector shall provide the voter with a notice that the voter's information will be verified by the clerk of the jurisdiction within 6 days after the election to determine whether the ballot will be tabulated and, if the ballot is not tabulated, to determine the reason it was not tabulated. A clerk of a jurisdiction shall provide a free access system for the voter to determine whether the ballot was tabulated. The free access system may include a telephone number that does not require a toll charge, a toll-free telephone number, an internet website, or a mailed notice.

(8) As used in this section and sections 813 and 829, "provisional ballot" means a special ballot utilized for an individual who is not listed on the voter registration list at the polling place that is tabulated only after verification of the individual's eligibility to vote.

Sec. 662. (1) The legislative body in each city, village, and township shall designate and prescribe the place or places of holding an election for a city, village, or township election, and shall provide a suitable polling place in or for each precinct located in the city, village, or township for use at each election. Except as otherwise provided in this section, school buildings, fire stations, police stations, and other publicly owned or controlled buildings shall be used as polling places. If it is not possible or convenient to use a publicly owned or controlled building as a polling place, the legislative body of the city, township, or village may use as a polling place a building owned or controlled by an organization that is exempt from federal income tax as provided by section 501(c) other than 501(c)(4), (5), or (6) of the internal revenue code of 1986, or any successor statute. The legislative body of a city, township, or village shall not designate as a polling place a building that is owned by a person who is a sponsor of a political committee or independent committee. A city, township, or village shall not use as a polling place a building that does not meet the requirements of this section. As used in this subsection, "sponsor of a political committee or independent committee" means a person who is described as being a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224, and includes a subsidiary of a corporation or a local of a labor organization, if the corporation or labor organization is considered a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224.

(2) The legislative body in each city, village, and township shall make arrangements for the rental or erection of suitable buildings for use as polling places if publicly owned or controlled buildings are not available, and shall have the polling places equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation. The legislative body may establish a central polling place or places for 6 precincts or less if it is possible and convenient for the electors to vote at the central polling place. The legislative body may abolish other polling places not required as a result of the establishment of a central polling place.

(3) The legislative body of a city, village, or township may establish a polling place at a for profit or nonprofit residence or facility in which 150 persons or more aged 62 or older reside or at an apartment building or complex in which 150 persons or more reside. A township board may provide polling places located within the limits of a city that has been incorporated from territory formerly a part of the township, and the electors of the township may cast their ballots at those polling places. If 2 contiguous townships utilize a combined township hall or other publicly owned or controlled building within 1 of the township's boundaries and outside of the other township's boundaries, and there is not another publicly owned or controlled building or a building owned or controlled by an organization that is exempt from federal income tax, as provided by section 501(c), other than 501(c)(4), (5), or (6), of the internal revenue code of

1986, available or suitable for a polling place within the other township, then each township board may provide a polling place in that publicly owned building for 1 or more election precinct.

(4) The legislative body of a city, village, or township shall not establish, move, or abolish a polling place less than 60 days before an election unless necessary because a polling place has been damaged, destroyed, or rendered inaccessible or unusable as a polling place.

(5) The legislative body of a city, village, or township shall ensure that a polling place established under this section is accessible and complies with the voting accessibility for the elderly and handicapped act and the help America vote act of 2002.

(6) As used in this section, “accessible” means the removal or modification of policies, practices, and procedures that deny an individual with a disability the opportunity to vote, including the removal of physical barriers as identified in section 261(b) of the help America vote act of 2002, 42 USC 15421, so as to ensure individuals with disabilities the opportunity to participate in elections in this state.

Sec. 727. (1) An election inspector shall challenge an applicant applying for a ballot if the inspector knows or has good reason to suspect that the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant’s name in the registration book. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that individual is not a registered elector in that precinct. An election inspector or other qualified challenger may challenge the right of an individual attempting to vote who has previously applied for an absent voter ballot and who on election day is claiming to have never received the absent voter ballot or to have lost or destroyed the absent voter ballot.

(2) Upon a challenge being made under subsection (1), an election inspector shall immediately do all of the following:

(a) Identify as provided in sections 745 and 746 a ballot voted by the challenged individual, if any.

(b) Make a written report including all of the following information:

(i) All election disparities or infractions complained of or believed to have occurred.

(ii) The name of the individual making the challenge.

(iii) The time of the challenge.

(iv) The name, telephone number, and address of the challenged individual.

(v) Other information considered appropriate by the election inspector.

(c) Retain the written report created under subdivision (b) and make it a part of the election record.

(d) Inform a challenged elector of his or her rights under section 729.

(3) A challenger shall not make a challenge indiscriminately and without good cause. A challenger shall not handle the poll books while observing election procedures or the ballots during the counting of the ballots. A challenger shall not interfere with or unduly delay the work of the election inspectors. An individual who challenges a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor.

Sec. 735. (1) At each primary and election, election inspectors shall keep 1 poll book and 1 poll list. An election inspector shall enter in the poll book, in the order in which electors are given ballots, the name of each elector who is given a ballot and immediately after the name, on the same line, shall enter the number of the ballot given to the elector. For an absent voter ballot, when an election inspector removes the ballot from the sealed absent voter envelope, the election inspector shall enter in the poll book the name of the absent voter and the number of the ballot.

(2) If an elector is issued a provisional ballot, an election inspector shall enter a proper designation in the poll book, including whether the provisional ballot was tabulated in the precinct or was secured for verification after the election.

(3) At the completion of the precinct canvass, an election inspector shall record on the certificate provided in the poll book the number of each metal seal used to seal voting equipment and ballot containers. Each member of the board of election inspectors shall sign the certificate.

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector’s ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector’s ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question shall be located at each polling place and programmed

to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(l) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(m) Be compatible with or include at least 1 voting device that is accessible for an individual with disabilities to vote in a manner that provides the same opportunity for access and participation, including secrecy and independence, as provided for other voters. The voting device shall include nonvisual accessibility for the blind and visually impaired.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls. Electronic tabulating equipment that tabulates ballots, including absentee ballots, at a central location shall be programmed to reject a ballot if the choices recorded on an elector's ballot for an office or a question exceed the number that the elector is entitled to vote for on that office or question, if no valid choices are recorded on an elector's ballot, or if, in a primary election, votes are recorded for candidates of more than 1 political party.

(3) Beginning January 1, 2006, each jurisdiction in this state conducting an election shall equip each polling place with at least 1 accessible voting device as required under subsection (1)(m).

Sec. 798c. (1) Absentee votes may be cast on paper ballots or ballot cards or both. Absent voter ballots may be counted in the various voting precincts or may be counted by absent voter counting boards. Absentee votes cast on paper ballots may be recorded by election inspectors on ballot cards for counting by tabulating equipment.

(2) In an election held under this act, absent voters' ballots may be voted and processed in the manner provided by this chapter.

(3) If electronic tabulating equipment rejects an absent voter ballot due to programming required under section 795, the rejected ballot shall be inspected to confirm the presence of the error before the ballot is processed. A vote for each elective office or ballot question in which an error is confirmed shall not be counted.

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.

Sec. 803. (1) Except as otherwise provided in this act, the following rules govern the counting and recounting of votes:

(a) If it is clearly evident from an examination of a ballot that the ballot has been mutilated for the purpose of distinguishing it or that there has been placed on the ballot some mark, printing, or writing for the purpose of distinguishing it, then that ballot is void and shall not be counted.

(b) A cross, the intersection of which is within or on the line of the proper circle or square, or a check mark, the angle of which is within a circle or square, is valid. Crosses or check marks otherwise located on the ballot are void.

(c) Marks other than crosses or check marks used to designate the intention of the voter shall not be counted.

(d) A cross is valid even though 1 or both lines of the cross are duplicated, if the lines intersect within or on the line of the square or circle.

(e) Two lines meeting within or on the line of the square or circle, although not crossing each other, are valid if it is apparent that the voter intended to make a cross.

(f) A failure to properly mark a ballot as to 1 or more candidates does not alone invalidate the entire ballot if the ballot has been properly marked as to other candidates, unless the improper marking is determined to be a distinguishing mark as described in this subsection.

(g) Erasures and corrections on a ballot made by the elector in a manner frequently used for this purpose shall not be considered distinguishing marks or mutilations.

(h) Any ballot or part of a ballot from which it is impossible to determine the elector's choice of candidate is void as to the candidate or candidates affected by that determination.

(i) Any votes cast for a deceased candidate are void and shall not be counted, except that votes cast for a candidate for governor who has died, and for whom a replacement has not been made, shall be counted for the candidate for lieutenant governor of that party.

(j) All ballots cast that are not counted shall be marked by the inspector "not counted", kept separate from the others by being tied or held in 1 package, and placed in the ballot box with the counted ballots.

(k) A vote shall not be counted for any candidate unless a cross or a check mark has been placed by the voter in the circle at the head of the party ticket, if any, on which the name of the candidate has been printed, written, or placed or unless a cross or a check mark has been placed by the voter in the square before the space in which the name of the candidate has been printed, written, or placed.

(2) If an 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 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.

Sec. 813. (1) Within 6 days after the election, for each provisional ballot that was placed in a provisional ballot return envelope, the city or township clerk shall determine whether the individual voting the provisional ballot was eligible to vote a ballot and whether to tabulate the provisional ballot. In making this determination, the city or township clerk shall not open the provisional ballot return envelope. A provisional ballot shall only be tabulated if a valid voter registration record for the elector is located or if the identity and residence of the elector is established using a Michigan operator's license, chauffeur's license, personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 along with a document to establish the voter's current residence address as provided in section 523a(5). Before the provisional ballot is tabulated, election officials shall process the ballot as a challenged ballot under sections 745 and 746.

(2) Within 7 days after the election, but sooner if practicable, the city or township clerk shall transmit the results of provisional ballots tabulated after the election to the board of county canvassers. The results shall be transmitted in a form prescribed by the secretary of state.

(3) Within 7 days after the election, the city or township clerk shall transmit to the county clerk a provisional ballot report for each precinct in the jurisdiction. The report shall include for each precinct the number of provisional ballots issued, the number of provisional ballots tabulated on election day, the number of provisional ballots forwarded to the clerk to be determined after the election, the number of provisional ballots tabulated by the clerk after election day, and any additional information concerning provisional ballots as required by the secretary of state.

Sec. 829. (1) The board of county canvassers shall include the results of the tabulated provisional ballots in the canvass of the election following procedures prescribed by the secretary of state designed to maintain the secrecy of the ballot.

(2) Within 14 days after a primary or election, the county clerk shall transmit a county provisional ballot report to the secretary of state. The county provisional ballot report shall be in a manner prescribed by the secretary of state. After the secretary of state receives a county provisional ballot report, the county provisional ballot report shall be immediately available for public inspection.

Sec. 842. (1) The board of state canvassers, for the purpose of canvassing the returns and ascertaining and determining the result of an election, shall meet at the office of the secretary of state on or before the twentieth day after the election. The secretary of state shall appoint the day of the meeting and shall notify the other members of the board. The board has power to adjourn from time to time to await the receipt or correction of returns, or for other necessary purposes, but shall complete the canvass and announce their determination not later than the fortieth day after the election. The board may at the time of its meeting, or an adjournment of its meeting, canvass the returns for any office for which the complete returns have been received.

(2) If the unofficial election returns show that the election of electors of president and vice president is determined by a vote differential between the first place and second place candidates for president and vice president of the United States of less than 25,000 votes, the secretary of state may direct the boards of county canvassers to canvass returns for electors of president and vice president on an expedited schedule. The secretary of state may direct the boards of county canvassers to complete the statements for electors of president and vice president required by section 824 and certify the statements as required by section 828 to the secretary of state by the seventh day after the election or by a date before the fourteenth day after the election.

(3) The secretary of state may appoint the day for the board of state canvassers to conduct the expedited canvass of the returns for electors of president and vice president and determine the results of that election. The day appointed for the expedited canvass shall be as soon as practicable after receipt of the returns from the boards of county canvassers, but no later than the twentieth day after the election.

Enacting section 1. Sections 509, 509a, and 509y of the Michigan election law, 1954 PA 116, MCL 168.509, 168.509a, and 168.509y, are repealed.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

.....
Governor