

SUBSTITUTE FOR
HOUSE BILL NO. 4048

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 758, 759, and 759a (MCL 168.758, 168.759,
and 168.759a), section 758 as amended by 1996 PA 207, section 759
as amended by 1995 PA 261, and section 759a as amended by 2007 PA
52.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 758. (1) ~~For the purposes of~~ **EXCEPT AS OTHERWISE**
2 **PROVIDED IN SUBSECTION (2), AS USED IN** this act, "absent voter"
3 means a qualified and registered elector who ~~meets 1 or more of~~
4 ~~the following requirements:~~
5 ~~(a) On account of physical disability, cannot without~~
6 ~~another's assistance attend~~ **VOTES WITHOUT ATTENDING** the polls on

1 the day of an election.

2 ~~—— (b) On account of the tenets of his or her religion, cannot~~
3 ~~attend the polls on the day of election.~~

4 ~~—— (c) Cannot attend the polls on the day of an election in the~~
5 ~~precinct in which he or she resides because of being an election~~
6 ~~precinct inspector in another precinct.~~

7 ~~—— (d) Is 60 years of age or older.~~

8 ~~—— (e) Is absent or expects to be absent from the township or~~
9 ~~city in which he or she resides during the entire period the~~
10 ~~polls are open for voting on the day of an election.~~

11 ~~—— (f) Cannot attend the polls on election day because of being~~
12 ~~confined in jail awaiting arraignment or trial.~~

13 ~~—— (2) Subsection (1) does not apply to~~ **ABSENT VOTER DOES NOT**
14 **INCLUDE** a person who has moved outside of this state, regardless
15 of length of his or her residence outside of this state, and who
16 no longer maintains an actual residence in this state. The
17 storage of personal effects or household goods, the ownership of
18 property that is rented or leased to others, or occasional brief
19 visits to a former domicile in this state while residing outside
20 of this state for most of the year ~~does~~ **DO** not constitute a
21 residence for voting purposes in this state, except for each of
22 the following:

23 (a) A person described in section 1 of article II of the
24 state constitution of 1963 and statutes enacted under that
25 section.

26 (b) A person described in section 759a.

27 **(2) IF MORE THAN 5% OF THE BALLOTS ISSUED TO ELECTORS IN A**

1 STATEWIDE ELECTION ARE SPOILED, THEN FOR EACH ELECTION HELD AFTER
2 THAT STATEWIDE ELECTION, "ABSENT VOTER" MEANS A QUALIFIED AND
3 REGISTERED ELECTOR WHO MEETS 1 OR MORE OF THE FOLLOWING
4 REQUIREMENTS:

5 (A) ON ACCOUNT OF PHYSICAL DISABILITY, CANNOT WITHOUT
6 ANOTHER'S ASSISTANCE ATTEND THE POLLS ON THE DAY OF AN ELECTION.

7 (B) ON ACCOUNT OF THE TENETS OF HIS OR HER RELIGION, CANNOT
8 ATTEND THE POLLS ON THE DAY OF AN ELECTION.

9 (C) CANNOT ATTEND THE POLLS ON THE DAY OF AN ELECTION IN THE
10 PRECINCT IN WHICH HE OR SHE RESIDES BECAUSE OF BEING AN ELECTION
11 PRECINCT INSPECTOR IN ANOTHER PRECINCT.

12 (D) IS 60 YEARS OF AGE OR OLDER.

13 (E) IS ABSENT OR EXPECTS TO BE ABSENT FROM THE TOWNSHIP OR
14 CITY IN WHICH HE OR SHE RESIDES DURING THE ENTIRE PERIOD THE
15 POLLS ARE OPEN FOR VOTING ON THE DAY OF AN ELECTION.

16 (F) CANNOT ATTEND THE POLLS ON ELECTION DAY BECAUSE OF BEING
17 CONFINED IN JAIL AWAITING ARRAIGNMENT OR TRIAL.

18 Sec. 759. (1) At any time during the 75 days before a
19 primary **ELECTION** or special primary **ELECTION**, but not later than
20 2 p.m. of the Saturday immediately before the primary **ELECTION** or
21 special primary **ELECTION**, an elector who ~~qualifies~~ **WANTS** to vote
22 as an absent voter ~~, as defined in section 758,~~ may apply for an
23 absent voter ballot. The elector shall apply in person or by mail
24 with the clerk of the township, city, or village in which the
25 elector is registered. An application received before a primary
26 **ELECTION** or special primary **ELECTION** may be for either that
27 primary **ELECTION** only, or for that primary **ELECTION** and the

1 election that follows.

2 (2) Except as otherwise provided in subsection (1), at any
 3 time during the 75 days before an election, but not later than 2
 4 p.m. of the Saturday before the election, an elector who
 5 ~~qualifies~~ **WANTS** to vote as an absent voter ~~, as defined in~~
 6 ~~section 758,~~ may apply for an absent voter ballot. The elector
 7 shall apply in person or by mail with the clerk of the township,
 8 city, or village in which the voter is registered.

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 stating the~~
 12 ~~statutory grounds for making the application~~ **ELECTOR**.

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

15 (c) On a federal postcard application.

16 (4) An applicant for an absent voter ballot shall sign the
 17 application. A clerk or assistant clerk shall not deliver an
 18 absent voter ballot to an applicant who does not sign the
 19 application. A person ~~other than~~ **SHALL NOT BE IN POSSESSION OF A**
 20 **SIGNED ABSENT VOTER BALLOT APPLICATION EXCEPT FOR** the applicant;
 21 a member of the applicant's immediate family; a person residing
 22 in the applicant's household; a person whose job normally
 23 includes the handling of mail, but only during the course of his
 24 or her employment; a registered elector requested by the
 25 applicant **TO RETURN THE APPLICATION**; or a clerk, assistant of the
 26 clerk, or other authorized election official. ~~shall not be in~~
 27 ~~possession of a signed absent voter ballot application.~~ A

1 registered elector who is requested by the applicant to return
2 his or her absent voter ballot application shall sign the
3 certificate on the absent voter ballot application.

4 (5) The clerk of the city, township, or village shall have
5 absent voter ballot application forms available in the **CLERK'S**
6 office ~~of the clerk~~ at all times and shall furnish an absent
7 voter ballot application form to anyone upon a verbal or written
8 request. The absent voter ballot application shall be in
9 substantially the following form:

10 "Application for absent voter ballot for:

11 [] The primary **ELECTION** or special primary election to be
12 held on ~~....., 19...~~ _____ [DATE].

13 [] The election to be held on ~~....., 19...~~
14 _____ [DATE].

15 (Check applicable election or elections)

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

24 ~~— The statutory grounds on which I base my request are:~~

25 ~~— [] I expect to be absent from the community in which I am~~
26 ~~registered for the entire time the polls are open on election~~
27 ~~day.~~

1 ~~_____ [] I am physically unable to attend the polls without the~~
2 ~~assistance of another.~~

3 ~~_____ [] I cannot attend the polls because of the tenets of my~~
4 ~~religion.~~

5 ~~_____ [] I have been appointed an election precinct inspector in~~
6 ~~a precinct other than the precinct where I reside.~~

7 ~~_____ [] I am 60 years of age or older.~~

8 ~~_____ [] I cannot attend the polls because I am confined to jail~~
9 ~~awaiting arraignment or trial.~~

10 ~~_____ (Check applicable reason)~~

11 Send absent voter ballot to me at:

12
13 (Street No. or R.R.)

14
15 (Post Office) (State) (ZIP CODE)

16 My registered address
17 (Street No. or R.R.)

18
19 (Post Office) (State) (ZIP CODE)

20 Date.....

21 I ~~declare~~ **CERTIFY** that the statements in this absent voter
22 ballot application are true.

23
24 (Signature)

25 WARNING

26 A person making a false statement in this absent voter
27 ballot application is guilty of a misdemeanor. It is a violation
28 of Michigan election law for a person other than those listed in
29 the instructions to return, offer to return, agree to return, or

1 INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

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

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

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

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

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

20 (d) ~~In the event~~ **IF** an applicant cannot return the
21 application in any of the above methods, the applicant may select
22 any registered elector to return the application. The person
23 returning the application must sign and return the certificate at
24 the bottom of the application.

25 (7) A person who prints and distributes absent voter ballot
26 applications shall print on the application the warning,

1 certificate of authorized registered elector returning absent
2 voter ballot application, and instructions required by this
3 section.

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

11 Sec. 759a. (1) A member of the armed services or an overseas
12 voter who is not registered, but possessed the qualifications of
13 an elector under section 492, may apply for registration by using
14 the federal postcard application. The department of state, bureau
15 of elections, is responsible for disseminating information on the
16 procedures for registering and voting to absent armed services
17 and overseas voters.

18 (2) Each of the following persons who is a qualified elector
19 of a city, village, or township in this state and who is not a
20 registered voter may apply for an absent voter ballot:

21 (a) A civilian employee of the armed services outside of the
22 United States.

23 (b) A member of the armed services outside of the United
24 States.

25 (c) A citizen of the United States temporarily residing
26 outside the territorial limits of the United States.

27 (d) A citizen of the United States residing in the District

1 of Columbia.

2 (e) A spouse or dependent of a person described in
3 subdivisions (a) through (d) who is a citizen of the United
4 States and who is accompanying that person, even though the
5 spouse or dependent is not a qualified elector of a city,
6 village, or township of this state, if that spouse or dependent
7 is not a qualified and registered elector anywhere else in the
8 United States.

9 (3) Upon receipt of an application under this section that
10 complies with this act, a city, village, or township clerk shall
11 forward to the applicant the absent voter ballots requested, the
12 forms necessary for registration, and instructions for completing
13 the forms. If the ballots are not yet available at the time of
14 receipt of the application, the clerk shall immediately forward
15 to the applicant the registration forms and instructions, and
16 forward the ballots as soon as they are available. If the ballots
17 and registration forms are ~~received before the close of the polls~~
18 ~~on~~ **POSTMARKED BY** election day and if the registration complies
19 with the requirements of this act, the absent voter ballots shall
20 be delivered to the proper election board to be voted. If the
21 registration does not comply with the requirements of this act,
22 the clerk shall retain the absent voter ballots until the
23 expiration of the time that the voted ballots must be kept and
24 shall then destroy the ballots without opening the envelope. The
25 clerk may retain registration forms completed under this section
26 in a separate file. The address in this state shown on a
27 registration form is the residence of the registrant.

1 (4) The size of a precinct shall not be determined by
2 registration forms completed under this section.

3 (5) A member of the armed services or an overseas voter, as
4 described in subsection (2), who registers to vote by federal
5 postcard application under subsection (1), and who applies to
6 vote as an absent voter by federal postcard application is
7 eligible to vote as an absent voter in any local or state
8 election, including any school election, occurring in the
9 calendar year in which the federal postcard application is
10 received by the city, village, or township clerk, but not in an
11 election for which the application is received by the clerk after
12 2 p.m. of the Saturday before the election. A city or township
13 clerk receiving a federal postcard application shall transmit to
14 a village clerk and school district election coordinator, where
15 applicable, the necessary information to enable the village clerk
16 and school district election coordinator to forward an absent
17 voter ballot for each applicable election in that calendar year
18 to the qualified elector submitting the federal postcard
19 application. A village clerk receiving a federal postcard
20 application shall transmit to a city or township clerk, where
21 applicable, the necessary information to enable the city or
22 township clerk to forward an absent voter ballot for each
23 applicable election in that calendar year to the qualified
24 elector submitting the federal postcard application. If the local
25 elections official rejects a registration or absent voter ballot
26 application submitted on a federal postcard application by an
27 absent armed services or overseas voter, the election official

1 shall notify the armed services or overseas voter of the
2 rejection.

3 (6) For a presidential primary, the secretary of state shall
4 do all of the following:

5 (a) Prescribe procedures for contacting an elector who is a
6 member of the armed services or an overseas voter, as described
7 in subsection (2), and who is eligible to receive an absent voter
8 ballot or who applies for an absent voter ballot for the
9 presidential primary, offering the elector the opportunity to
10 select a participating political party ballot for the
11 presidential primary.

12 (b) Prescribe procedures to protect or safeguard the
13 confidentiality of an elector's participating political party
14 ballot selection ascertained under this section consistent with
15 section 615c.

16 (7) Under the uniformed and overseas citizens absentee
17 voting act, 42 USC 1973ff to 1973ff-6, the state director of
18 elections shall approve a ballot form and registration procedures
19 for electors in the armed services and electors outside the
20 United States, including the spouses and dependents accompanying
21 those electors.

22 (8) As used in this section, "armed services" means any of
23 the following:

24 (a) The United States army, navy, air force, marine corps,
25 or coast guard.

26 (b) The United States merchant marine.

27 (c) A reserve component of an armed service listed in

1 subdivision (a) or (b).

2 (d) The Michigan national guard as defined in section 105 of
3 the Michigan military act, 1967 PA 150, MCL 32.505.