

# SENATE BILL NO. 9

January 13, 2021, Introduced by Senator WOJNO and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending section 759a (MCL 168.759a), as amended by 2012 PA 523.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 759a. (1) An absent uniformed services voter or an  
2 overseas voter who is not registered, but possessed the  
3 qualifications of an elector under section 492, may apply for  
4 registration by using the federal postcard application. The  
5 department of state, bureau of elections, is responsible for

1 disseminating information on the procedures for registering and  
2 voting to an absent uniformed services voter and an overseas voter.

3 (2) Upon the request of an absent uniformed services voter or  
4 an overseas voter, the clerk of a county, city, township, or  
5 village shall electronically transmit a blank voter registration  
6 application or blank absent voter ballot application to the voter.  
7 The clerk of a county, city, township, or village shall accept a  
8 completed voter registration application or completed absent voter  
9 ballot application electronically transmitted by an absent  
10 uniformed services voter or overseas voter. A voter registration  
11 application or absent voter ballot application submitted by an  
12 absent uniformed services voter or overseas voter ~~shall~~**must**  
13 contain the signature of the voter.

14 (3) A spouse or dependent of an overseas voter who is a  
15 citizen of the United States, is accompanying that overseas voter,  
16 and is not a qualified and registered elector anywhere else in the  
17 United States, may apply for an absent voter ballot even though the  
18 spouse or dependent is not a qualified elector of a city or  
19 township of this state.

20 (4) An absent uniformed services voter or an overseas voter,  
21 whether or not registered to vote, may apply for an absent voter  
22 ballot. Upon receipt of an application for an absent voter ballot  
23 under this section that complies with this act, a county, city,  
24 village, or township clerk shall forward to the applicant the  
25 absent voter ballots requested, the forms necessary for  
26 registration, and instructions for completing the forms. If the  
27 ballots are not yet available at the time of receipt of the  
28 application, the clerk shall immediately forward to the applicant  
29 the registration forms and instructions, and forward the ballots as

1 soon as they are available. If a federal postcard application or an  
 2 application from the official United States ~~department~~**Department**  
 3 of ~~defense~~**Defense** website is filed, the clerk shall accept the  
 4 federal postcard application or the application from the official  
 5 United States ~~department~~**Department** of ~~defense~~**Defense** website as  
 6 the registration application and shall not send any additional  
 7 registration forms to the applicant. If the ballots and  
 8 registration forms are received before the close of the polls on  
 9 election day and if the registration complies with the requirements  
 10 of this act, the absent voter ballots ~~shall~~**must** be delivered to  
 11 the proper election board to be tabulated. If the registration does  
 12 not comply with the requirements of this act, the clerk shall  
 13 retain the absent voter ballots until the expiration of the time  
 14 that the voted ballots must be kept and shall then destroy the  
 15 ballots without opening the envelope. The clerk may retain  
 16 registration forms completed under this section in a separate file.  
 17 The address in this state shown on a registration form is the  
 18 residence of the registrant.

19 (5) Not later than 45 days before an election, a county, city,  
 20 township, or village clerk shall electronically transmit or mail as  
 21 appropriate an absent voter ballot to each absent uniformed  
 22 services voter or overseas voter who applied for an absent voter  
 23 ballot 45 days or more before the election.

24 (6) Upon the request of an absent uniformed services voter or  
 25 overseas voter, the clerk of a county, city, township, or village  
 26 shall electronically transmit an absent voter ballot to the voter.  
 27 ~~The~~**Except as otherwise provided in this subsection, the** voter  
 28 shall print the absent voter ballot and return the voted ballot by  
 29 mail to the appropriate clerk. **An eligible member may**

1 electronically return a voted ballot to the appropriate city or  
2 township clerk to be counted under the policies and procedures  
3 established by the secretary of state as set forth in subsection  
4 (17) .

5 (7) The secretary of state shall prescribe electronic absent  
6 voter ballot formats and electronic absent voter ballot  
7 transmission methods. Each county, city, township, or village clerk  
8 shall employ the prescribed electronic ballot formats to fulfill an  
9 absent voter ballot request received from an absent uniformed  
10 services voter or overseas voter who wishes to receive his or her  
11 absent voter ballot through an electronic transmission. The  
12 secretary of state shall establish procedures to implement the  
13 requirements in this section and for the processing of a marked  
14 absent voter ballot returned by an absent uniformed services voter  
15 or overseas voter who obtained his or her absent voter ballot  
16 through an electronic transmission.

17 (8) The secretary of state shall modify the printed statement  
18 provided under section 761(4) and the absent voter ballot  
19 instructions provided under section 764a as appropriate to  
20 accommodate the procedures developed for electronically  
21 transmitting an absent voter ballot to an absent uniformed services  
22 voter or overseas voter. A statement ~~shall~~**must** be included in the  
23 certificate signed by the absent voter who obtained his or her  
24 absent voter ballot through an electronic transmission that the  
25 secrecy of the absent voter ballot may be compromised during the  
26 duplication process. The absent voter ballot instructions provided  
27 to an absent uniformed services voter or overseas voter ~~shall~~**must**  
28 include the proper procedures for returning the absent voter ballot  
29 to the appropriate clerk.

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

3           (10) An absent uniformed services voter or an overseas voter  
4 who submits an absent voter ballot application is eligible to vote  
5 as an absent voter in any local, state, or federal election  
6 occurring in the calendar year in which the election is held for  
7 that ballot requested if the absent voter ballot application is  
8 received by the county, city, village, or township clerk not later  
9 than 2 p.m. of the Saturday before the election. A county, city, or  
10 township clerk receiving an absent voter ballot application from an  
11 absent uniformed services voter or overseas voter shall transmit to  
12 a village clerk and the school district election coordinators,  
13 where applicable, the necessary information to enable the village  
14 clerk and school district election coordinators to forward an  
15 absent voter ballot for each applicable election in that calendar  
16 year to the absent voter. A village clerk receiving an absent voter  
17 ballot application from an absent uniformed services voter or  
18 overseas voter shall transmit to the township clerk and the school  
19 district election coordinators, where applicable, the necessary  
20 information to enable the city or township clerk and school  
21 district election coordinators to forward an absent voter ballot  
22 for each applicable election in that calendar year to the absent  
23 voter. If the local elections official rejects a voter registration  
24 application or absent voter ballot application submitted by an  
25 absent uniformed services voter or overseas voter, the election  
26 official shall notify the voter of the rejection.

27           (11) An electronic mail address provided by an absent  
28 uniformed services voter or overseas voter for the purposes of this  
29 section is confidential and exempt from disclosure under the

1 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

2 (12) Under the uniformed and overseas citizens absentee voting  
3 act, the state director of elections shall approve a ballot form  
4 and registration procedures for absent uniformed services voters  
5 and overseas voters.

6 (13) An absent uniformed services voter or an overseas voter  
7 may use the federal write-in absentee ballot, in accordance with  
8 the provisions of the uniformed and overseas citizens absentee  
9 voting act, at a regular election or special election to vote for a  
10 local, state, or federal office or on a ballot question. ~~An~~**Except**  
11 **as otherwise provided in this subsection, an** absent uniformed  
12 services voter or an overseas voter who uses the federal write-in  
13 absentee ballot shall return his or her voted federal write-in  
14 absentee ballot by mail to the appropriate clerk. **An eligible**  
15 **member may electronically return a voted ballot to the appropriate**  
16 **city or township clerk to be counted under the policies and**  
17 **procedures established by the secretary of state as set forth in**  
18 **subsection (17).** The state bureau of elections shall do both of the  
19 following:

20 (a) Make the ballot format for each election available to  
21 absent uniformed services voters and overseas voters by electronic  
22 mail or on an internet website maintained by the department of  
23 state.

24 (b) Make the ballot information, including the offices, names  
25 of candidates, and ballot proposals, for each election available to  
26 absent uniformed services voters and overseas voters on an internet  
27 website maintained by the department of state.

28 (14) The clerk of a city, village, or township shall submit to  
29 the county clerk of the county in which that city, village, or

1 township is located a written statement no later than 45 days  
2 before each election indicating whether absent voter ballots were  
3 issued to absent uniformed services voters or overseas voters in  
4 compliance with this section and the uniformed and overseas  
5 citizens absentee voting act. The city, village, or township clerk  
6 shall provide to the county clerk a written explanation describing  
7 remedial actions taken by the city, village, or township clerk if  
8 the city, village, or township clerk fails to comply with this  
9 section and the uniformed and overseas citizens absentee voting  
10 act. Not later than 42 days before each election, each county clerk  
11 shall submit to the state bureau of elections a written report  
12 compiled from the written statements submitted by the city,  
13 village, and township clerks. The written report ~~shall~~**must**  
14 identify the cities, villages, and townships that complied with the  
15 45-day deadline under this subsection, the cities, villages, and  
16 townships that did not comply with the 45-day deadline under this  
17 subsection, but provided a written explanation, and those cities,  
18 villages, and townships that did not comply with the 45-day  
19 deadline under this subsection and that did not provide a written  
20 explanation. The state bureau of elections may require the clerk of  
21 a city, village, or township that did not comply with the 45-day  
22 deadline under this subsection, but provided a written explanation,  
23 to provide additional information. The state bureau of elections  
24 shall require the clerk of a city, village, or township that did  
25 not comply with the 45-day deadline and that did not provide a  
26 written explanation to file a written explanation, describing the  
27 remedial actions taken by the city, village, or township clerk,  
28 within 1 business day after the state bureau of elections notifies  
29 the clerk of that city, village, or township.

1           (15) For a presidential primary election, the secretary of  
2 state shall prescribe procedures for contacting an elector who is  
3 an absent uniformed services voter or an overseas voter, as  
4 described in this section, and who is eligible to receive an absent  
5 voter ballot or who applies for an absent voter ballot for the  
6 presidential primary election, offering the elector the opportunity  
7 to select a political party ballot for the presidential primary  
8 election.

9           (16) The secretary of state shall order a city, village, or  
10 township clerk to extend the ballot receipt deadline for any  
11 absentee voter ballots under this section that were not transmitted  
12 to an absent uniformed services voter or overseas voter in  
13 compliance with subsection (5). The extension ~~shall~~**must** equal the  
14 total number of days beyond the deadline as provided in subsection  
15 (5) that the city, village, or township clerk transmitted the  
16 requested absentee voter ballots. These absentee voter ballots  
17 received during the extension time ~~shall~~**must** be counted and  
18 tabulated for the final results of the election provided that the  
19 absentee voter ballots are executed and sent by the close of the  
20 polls on election day. The election may be formally certified  
21 before the end of the extension time if the number of outstanding  
22 absentee voter ballots under this subsection will not alter the  
23 outcome of the election.

24           **(17) The secretary of state shall develop policies and**  
25 **procedures by which an eligible member may electronically return**  
26 **his or her voted ballot to the appropriate city or township clerk.**  
27 **The policies and procedures developed by the secretary of state**  
28 **must do all of the following:**

29           **(a) Allow an eligible member to use a United States Department**



1 of Defense verified electronic signature, as that term is defined  
2 in section 18a, so that the identity of the eligible member can be  
3 verified.

4 (b) Provide that an eligible member who is unable or unwilling  
5 to provide a United States Department of Defense verified  
6 electronic signature is not eligible to electronically return a  
7 voted ballot.

8 (c) Include additional security features considered  
9 appropriate by the secretary of state to ensure and verify the  
10 integrity and secrecy of voted ballots returned electronically by  
11 eligible members.

12 (d) Ensure that an absent voter ballot voted by an eligible  
13 member is considered received on election day if the absent voter  
14 ballot is received electronically by 8 p.m. on election day.

15 (e) Ensure that, in addition to all other election returns and  
16 records that are required by law to be provided to the county  
17 clerk, each city or township clerk provides the county clerk of the  
18 county in which the city or township is located a list of all  
19 absent voter ballots received electronically by 8 p.m. on election  
20 day.

21 (18) The secretary of state may develop and maintain a secure  
22 web portal on the secretary of state's website to facilitate the  
23 electronic return of voted ballots by eligible members.

24 (19) ~~(17)~~—As used in this section:

25 (a) "Absent uniformed services voter" means any of the  
26 following:

27 (i) A member of a uniformed service on active duty who, by  
28 reason of being on active duty, is absent from the place of  
29 residence where the member is otherwise qualified to vote.

1           (ii) A member of the merchant marine who, by reason of service  
2 in the merchant marine, is absent from the place of residence where  
3 the member is otherwise qualified to vote.

4           (iii) A spouse or dependent of a member referred to in  
5 subparagraph (i) or (ii) who, by reason of the active duty or service  
6 of the member, is absent from the place of residence where the  
7 spouse or dependent is otherwise qualified to vote.

8           **(b) "Eligible member" means a member of a uniformed service on**  
9 **active duty, by reason of being on active duty, or a member of the**  
10 **merchant marine, by reason of service in the merchant marine, who**  
11 **is absent from the United States and does not expect to return to**  
12 **the residence where the member is otherwise qualified to vote**  
13 **before an election.**

14           (c) ~~(b)~~—"Member of the merchant marine" means an individual,  
15 other than a member of a uniformed service or an individual  
16 employed, enrolled, or maintained on the Great Lakes or the inland  
17 waterways, who is either of the following:

18           (i) Employed as an officer or crew member of a vessel  
19 documented under the laws of the United States, a vessel owned by  
20 the United States, or a vessel of foreign-flag registry under  
21 charter to or control of the United States.

22           (ii) Enrolled with the United States for employment or training  
23 for employment, or maintained by the United States for emergency  
24 relief service, as an officer or crew member of a vessel documented  
25 under the laws of the United States, a vessel owned by the United  
26 States, or a vessel of foreign-flag registry under charter to or  
27 control of the United States.

28           (d) ~~(c)~~—"Overseas voter" means any of the following:

29           (i) An absent uniformed services voter who, by reason of active

1 duty or service, is absent from the United States on the date of an  
2 election.

3 (ii) A person who resides outside of the United States and is  
4 qualified to vote in the last place in which the person was  
5 domiciled before leaving the United States.

6 (iii) A person who resides outside of the United States and who,  
7 but for such residence outside of the United States, would be  
8 qualified to vote in the last place in which he or she was  
9 domiciled before leaving the United States.

10 (e) ~~(d)~~—"Uniformed services" means the ~~army, navy, air force,~~  
11 ~~marine corps, coast guard, Army, Navy, Air Force, Marine Corps, or~~  
12 **Coast Guard, the commissioned corps Commissioned Corps** of the  
13 ~~public health service, Public Health Service, the commissioned~~  
14 ~~corps Commissioned Corps~~ of the ~~national oceanic National Oceanic~~  
15 ~~and atmospheric administration, Atmospheric Administration,~~ a  
16 reserve component of a uniformed service, or the Michigan ~~national~~  
17 ~~guard National Guard~~ as **that term is** defined in section 105 of the  
18 Michigan military act, 1967 PA 150, MCL 32.505.

19 Enacting section 1. This amendatory act does not take effect  
20 unless Senate Bill No. 8 of the 101st Legislature is enacted into  
21 law.