

SENATE BILL No. 1405

September 21, 2004, Introduced by Senators BRATER, CHERRY, SCHAUER, SCOTT, THOMAS, BASHAM, JACOBS, PRUSI, BERNERO, SWITALSKI, CLARK-COLEMAN, CLARKE, OLSHOVE, LELAND and BARCIA and referred to the Committee on Government Operations.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 758. ~~—(1) For the purposes of—~~ **As used in this act,**
 2 "absent voter" means a qualified and registered elector who
 3 ~~meets 1 or more of the following requirements:~~
 4 ~~— (a) On account of physical disability, cannot without~~
 5 ~~another's assistance attend—~~ **wishes to vote without attending the**
 6 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 election.~~
 9 ~~— (c) Cannot attend the polls on the day of an election in the~~

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1 ~~precinct in which he or she resides because of being an election~~
 2 ~~precinct inspector in another precinct.~~

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

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

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

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

19 (a) A person described in section 1 of article II of the
 20 state constitution of 1963 and statutes enacted under that
 21 section.

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

23 Sec. 759. (1) At any time during the 75 days before a
 24 primary **election** or special primary **election**, but not later than
 25 2 p.m. of the Saturday immediately before the primary **election** or
 26 special primary **election**, an elector who qualifies to vote as an
 27 absent voter ~~—, as defined in section 758,—~~ may apply for an

1 absent voter ballot. The elector shall apply in person or by
2 mail with the clerk of the township, city, or village in which
3 the elector is registered. An application received before a
4 primary **election** or special primary **election** may be for either
5 that primary **election** only, or for that primary **election** and the
6 election that follows.

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

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

16 (a) By a written request signed by the ~~voter stating the~~
17 ~~statutory grounds for making the application~~ **elector**.

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

20 (c) On a federal postcard application.

21 (4) An applicant for an absent voter ballot shall sign the
22 application. A clerk or assistant clerk shall not deliver an
23 absent voter ballot to an applicant who does not sign the
24 application. ~~A person other~~ **Other** than the applicant; a member
25 of the applicant's immediate family; a person residing in the
26 applicant's household; a person whose job normally includes the
27 handling of mail, but only during the course of his or her

1 employment; a registered elector requested by the applicant to
2 **return the application**; or a clerk, assistant of the clerk, or
3 other authorized election official, **a person** shall not be in
4 possession of a signed absent voter ballot application. A
5 registered elector who is requested by the applicant to return
6 his or her absent voter ballot application shall sign the
7 certificate on the absent voter ballot application.

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

14 "Application for absent voter ballot for:

15 [] The primary **election** or special primary election to be
16 held on ~~....., 19...~~ _____ **[date]**.

17 [] The election to be held on ~~....., 19...~~ _____
18 **[date]**.

19 (Check applicable election or elections)

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

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

1 ~~_____ [] I expect to be absent from the community in which I am~~
2 ~~registered for the entire time the polls are open on election~~
3 ~~day.~~

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

6 ~~_____ [] I cannot attend the polls because of the tenets of my~~
7 ~~religion.~~

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

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

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

13 ~~_____ (Check applicable reason)~~

14 Send absent voter ballot to me at:

15
16 (Street No. or R.R.)

17
18 (Post Office) (State) Zip Code

19 My registered address.....
20 (Street No. or R.R.)

21
22 (Post Office) (State) Zip Code

23 Date.....

24 I ~~declare~~ **certify** that the statements in this absent voter
25 ballot application are true.

26
27 (Signature)

28 **WARNING**
29 A person making a false statement in this absent voter ballot
30 application is guilty of a misdemeanor. It is a violation of

1 Michigan election law for a person other than those listed in the
2 instructions to return, offer to return, agree to return, or
3 solicit to return your absent voter ballot application to the
4 clerk. An assistant authorized by the clerk who receives absent
5 voter ballot applications at a location other than the office of
6 the clerk must have credentials signed by the clerk. Ask to see
7 his or her credentials before entrusting your application with a
8 person claiming to have the clerk's authorization to return your
9 application.

10 Certificate of Authorized Registered
11 Elector Returning Absent Voter
12 Ballot Application

13 I certify that my name is, my address is
14, and my date of birth is; that
15 I am delivering the absent voter ballot application of
16 at his or her request; that I did not
17 solicit or request to return the application; that I have not
18 made any markings on the application; that I have not altered the
19 application in any way; that I have not influenced the applicant;
20 and that I am aware that a false statement in this certificate is
21 a violation of Michigan election law.

22 _____
23 (Date) (Signature)"
24 (6) The following instructions for an applicant for an absent

25 voter ballot shall be included with each application furnished an
26 applicant:

27 INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

28 Step 1. After completely filling out the application, sign

1 and date the application in the place designated. Your signature
2 must appear on the application or you will not receive an absent
3 voter ballot.

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

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

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

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

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

24 (7) A person who prints and distributes absent voter ballot
25 applications shall print on the application the warning,
26 certificate of authorized registered elector returning absent
27 voter ballot application, and instructions required by this

1 section.

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

9 Sec. 759b. (1) ~~Any~~ **A** registered elector may apply for **an**
10 absent voter ~~ballots~~ **ballot** at any time ~~prior to~~ **before** 4
11 p.m. on election day if ~~he shall have become physically disabled~~
12 ~~or shall be absent from the city or township because of sickness~~
13 ~~or death in the family which~~ **an event** has occurred at a time
14 ~~which has~~ **that** made it impossible to apply for absent voter
15 ballots by the statutory deadline. The application shall be
16 called an emergency absent voter **ballot** application.

17 (2) Emergency absent voter **ballot** applications may be made by
18 letter or on a form **prescribed by the secretary of state and**
19 provided by the clerk. The application shall set forth that the
20 voter is qualified to vote in the election ~~—, stating the~~
21 ~~statutory reason for applying for an emergency absent voter~~
22 ~~ballot~~ and that ~~the reason for applying after the statutory~~
23 ~~deadline~~ **an event** occurred at such a time to make it impossible
24 to file an application for **an** absent voter ~~ballots~~ **ballot** by
25 the statutory deadline. **The secretary of state shall prescribe a**
26 **standard emergency absent voter ballot application form,**
27 **including the size of the form and the color of paper upon which**

1 the form is printed.

2 (3) ~~Any~~ A person intentionally making a false statement in
3 ~~such~~ an **emergency absent voter ballot** application is guilty of
4 a felony. ~~Any~~ A person aiding or abetting ~~any~~ **another** person
5 to make a false statement ~~on such~~ **in an emergency absent voter**
6 **ballot** application is guilty of a felony.

7 (4) Upon receipt by the clerk of a valid application for an
8 emergency absent voter ballot, the clerk may deliver the **absent**
9 **voter** ballots to the applicant in person, through a deputy or an
10 election assistant, or ~~he may deliver them~~ at his **or her** office
11 to a person named by the applicant in the **emergency absent voter**
12 **ballot** application. The **absent** voter may return the **absent voter**
13 ballots to the clerk ~~in the sealed envelope provided therefor~~
14 in any manner. ~~he sees fit. To~~ **However, to** be valid, ~~ballots~~
15 ~~must be returned~~ **the absent voter shall return the absent voter**
16 **ballots** to the clerk **in the sealed envelope provided for that**
17 **reason and** in time to be delivered to the polls ~~prior to~~ **before**
18 8 p.m. on election day.