

ELECTRONIC OVERSEAS VOTING FOR MILITARY SPOUSES

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House Bill 4210 as introduced
Sponsor: Rep. Carol Glanville
Committee: Elections
Complete to 5-8-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4210 would amend the Michigan Election Law to allow the spouse of an overseas active duty service member to vote electronically.

Under current law, beginning January 1, 2024, a member of a uniformed service on active duty or a member of the merchant marine who, because of active duty or service, is absent from the U.S. and does not expect to return to the residence where they are otherwise qualified to vote before an election can electronically return a voted ballot to the appropriate city or township clerk to be counted under rules developed by the secretary of state (SOS).

The SOS is required to do all of the following:

- Promulgate rules that establish policies and procedures for the electronic return of voted ballots by *eligible members* (defined as members of the military on active duty or members of the merchant marine).
- In promulgating rules, require the eligible member to use a U.S. Department of Defense verified electronic signature,¹ so that the identity of the eligible member can be verified. (A member who is unwilling to provide the Department of Defense verified signature is ineligible to vote electronically.)
- Take reasonable efforts to ensure the integrity and secrecy of those ballots.
- By January 1, 2024, promulgate rules to implement these requirements, in accordance with the Administrative Procedures Act.
- By the 2024 statewide presidential primary election, allow for the electronic return of voted ballots by eligible members.

The SOS can develop and maintain a secure web portal on the SOS website to facilitate the electronic return. Only the SOS or the SOS's duly authorized agent, city and township clerks or deputy clerks, and sworn members of a clerk's staff are authorized to access the portal.

House Bill 4210 would allow the spouses of active duty service members and members of the merchant marine to qualify as *eligible members* who can vote electronically. Instead of using a Department of Defense verified signature, the signature on an eligible member's electronically returned ballot would have to match their signature in the qualified voter file (QVF).

¹ Section 18a of the Michigan Election Law defines a *U.S. Department of Defense verified signature*, for purposes of the act, as the certificate-based digital identification code issued to qualified personnel by the U.S. Department of Defense as part of the Common Access Card (CAC), or its successor. House Bill 4210 would repeal this section.

Eligible member would mean a member of a uniformed service on active duty or a member of the merchant marine, or a spouse of those members, who is absent from the United States due to that duty or service and does not expect to return to the residence from where they are otherwise qualified to vote before an election.

Instead of the requirements listed above, the SOS would have to establish policies and procedures that ensure the following:

- The signature on an electronically returned ballot sufficiently matches the eligible member's signature on file.
- The eligible member is absent from the United States.
- A county, city or township clerk is responsible for sending and receiving electronic ballots.
- An absentee ballot voted by an eligible member is considered received on election day if it is electronically returned to the appropriate city or township clerk and received by that clerk by 8:00 p.m. on election day.²
- City and township clerks provide the appropriate county clerk with a list of all absentee ballots that were received electronically by 8:00 p.m. on election day,³ in addition to all other returns and records required to be provided to county clerks.

These policies and procedures would have to include any additional security features that the SOS considers appropriate for ensuring and verifying the integrity and secrecy of electronically returned ballots. The SOS would remain authorized to develop and maintain a secure web portal for electronic ballot returns, but the bill would remove the provisions that limit who can access the portal.

The bill would also remove the 2024 deadlines for implementation.

MCL 168.759a (amended) and 168.18a (repealed)

BACKGROUND:

Currently, federal⁴ and state⁵ law require that ballots must be electronically transmitted or mailed to active duty members of the military at least 45 days before an election. Thirty-one other states, in addition to the District of Columbia and the U.S. Virgin Islands, allow some voters to return their ballots electronically through fax, email, or an online portal.⁶

² With the passage of Ballot Proposal 22-2, the state constitution requires military and overseas voter absentee ballots to be counted if they are postmarked on or before election day and received within six days of the election (see **Background**, below).

³ See **Background**, below.

⁴ The Uniformed and Overseas Citizens Absentee Voting Act, as amended in 2010 by the Military and Overseas Voter Act, <https://www.justice.gov/crt/uniformed-and-overseas-citizens-absentee-voting-act>.

⁵ MCL 168.759a, codified into section 4 of Article II of the Michigan Constitution by Proposal 3 of 2018. HFA summary of Proposal 3: http://www.house.mi.gov/hfa/PDF/Alpha/Ballot_Proposal_2018-3_Promote_The_Vote.pdf.

⁶ More information on electronic ballot return in each state can be found here: <https://www.ncsl.org/elections-and-campaigns/electronic-ballot-return-internet-voting>.

Public Acts 196 and 197 of 2022 authorized electronic voting in Michigan for overseas active-duty military members with the use of a Department of Defense verified signature.⁷ Under current law, electronic voting does not begin until 2024.

Additionally, Ballot Proposal 22-2 amended the state constitution to grant military and overseas voters, including the spouses of uniformed service members and members of the merchant marine, the right to have their absentee ballots counted if the ballot was postmarked on or before election day and received by the appropriate election official within six days of election day. This change was incorporated into the Michigan Election Law by 2023 PA 25.⁸

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

⁷ A summary of 2022 PA 196 and 2022 PA 197 can be found here: <http://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-0311-B5F35D59.pdf>.

⁸ A summary of this change can be found here: <http://www.legislature.mi.gov/documents/2023-2024/billanalysis/House/pdf/2023-HLA-0259-123CA65B.pdf>. Under current law, postmark means any type of mark applied to an absentee ballot return envelope that indicates when the ballot was mailed.