

**SUBSTITUTE FOR
SENATE BILL NO. 259**

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 759a and 764a (MCL 168.759a and 168.764a),
section 759a as amended by 2022 PA 197 and section 764a as amended
by 2020 PA 177.

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

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

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

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

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

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

21 (6) Upon the request of an absent uniformed services voter or
22 overseas voter, the clerk of a county, city, or township shall
23 electronically transmit an absent voter ballot to the voter. Except
24 as otherwise provided in this subsection, the voter shall print the
25 absent voter ballot and return the voted ballot by mail to the
26 appropriate clerk. Subject to subsection (17), beginning January 1,
27 2024, a member of a uniformed service on active duty, by reason of
28 being on active duty, or a member of the merchant marine, by reason
29 of service in the merchant marine, who is absent from the United

1 States and does not expect to return to the residence where the
2 member is otherwise qualified to vote before an election may
3 electronically return a voted ballot to the appropriate city or
4 township clerk to be counted under the rules promulgated by the
5 secretary of state as set forth in subsection (17).

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

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

1 clerk.

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

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

22 (11) An email address provided by an absent uniformed services
23 voter or overseas voter for the purposes of this section is
24 confidential and exempt from disclosure under the freedom of
25 information act, 1976 PA 442, MCL 15.231 to 15.246.

26 (12) Under the uniformed and overseas citizens absentee voting
27 act, the state director of elections shall approve a ballot form
28 and registration procedures for absent uniformed services voters
29 and overseas voters.

1 (13) An absent uniformed services voter or an overseas voter
2 may use the federal write-in absentee ballot, in accordance with
3 the provisions of the uniformed and overseas citizens absentee
4 voting act, at a regular election or special election to vote for a
5 local, state, or federal office or on a ballot question. Except as
6 otherwise provided in this subsection, an absent uniformed services
7 voter or an overseas voter who uses the federal write-in absentee
8 ballot shall return the voter's voted federal write-in absentee
9 ballot by mail to the appropriate clerk. Subject to subsection
10 (17), beginning January 1, 2024, a member of a uniformed service on
11 active duty, by reason of being on active duty, or a member of the
12 merchant marine, by reason of service in the merchant marine, who
13 is absent from the United States and does not expect to return to
14 the residence where the member is otherwise qualified to vote
15 before an election may electronically return a voted ballot to the
16 appropriate city or township clerk to be counted under the rules
17 promulgated by the secretary of state as set forth in subsection
18 (17). The state bureau of elections shall do both of the following:

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

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

26 (14) The clerk of a city or township shall submit to the
27 county clerk of the county in which that city or township is
28 located a written statement no later than 45 days before each
29 election indicating whether absent voter ballots were issued to

1 absent uniformed services voters or overseas voters in compliance
2 with this section and the uniformed and overseas citizens absentee
3 voting act. The city or township clerk shall provide to the county
4 clerk a written explanation describing remedial actions taken by
5 the city or township clerk if the city or township clerk fails to
6 comply with this section and the uniformed and overseas citizens
7 absentee voting act. Not later than 42 days before each election,
8 each county clerk shall submit to the state bureau of elections a
9 written report compiled from the written statements submitted by
10 the city and township clerks. The written report must identify the
11 cities and townships that complied with the 45-day deadline under
12 this subsection, the cities and townships that did not comply with
13 the 45-day deadline under this subsection, but provided a written
14 explanation, and those cities and townships that did not comply
15 with the 45-day deadline under this subsection and that did not
16 provide a written explanation. The state bureau of elections may
17 require the clerk of a city or township that did not comply with
18 the 45-day deadline under this subsection, but provided a written
19 explanation, to provide additional information. The state bureau of
20 elections shall require the clerk of a city or township that did
21 not comply with the 45-day deadline and that did not provide a
22 written explanation to file a written explanation, describing the
23 remedial actions taken by the city or township clerk, within 1
24 business day after the state bureau of elections notifies the clerk
25 of that city or township.

26 (15) For a presidential primary election, the secretary of
27 state shall prescribe procedures for contacting an elector who is
28 an absent uniformed services voter or an overseas voter, as
29 described in this section, and who is eligible to receive an absent

1 voter ballot or who applies for an absent voter ballot for the
2 presidential primary election, offering the elector the opportunity
3 to select a political party ballot for the presidential primary
4 election.

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

20 (17) The secretary of state shall promulgate rules that
21 establish policies and procedures for the electronic return of
22 voted ballots by eligible members. In promulgating rules that
23 establish the policies and procedures for the electronic return of
24 voted ballots by eligible members, the secretary of state shall
25 require an eligible member to use a United States Department of
26 Defense verified electronic signature, as that term is defined in
27 section 18a, so that the identity of the eligible member can be
28 verified utilizing those policies and procedures. A member who is
29 unable or unwilling to provide a United States Department of

1 Defense verified electronic signature is not eligible to
2 electronically return a voted ballot. The secretary of state shall
3 take reasonable steps to ensure the integrity and secrecy of voted
4 ballots returned electronically. The secretary of state may develop
5 and maintain a secure web portal on the secretary of state's
6 website to facilitate the electronic return of voted ballots by
7 eligible members. Only the secretary of state or the secretary of
8 state's duly authorized agent, a city or township clerk, the
9 clerk's deputy clerk, or a sworn member of the clerk's staff is
10 authorized to access the secure web portal on the secretary of
11 state's website. No later than January 1, 2024, the secretary of
12 state shall promulgate rules pursuant to the administrative
13 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to
14 implement this subsection, and the secretary of state must allow
15 for the electronic return of voted ballots by eligible members
16 starting no later than the 2024 statewide presidential primary
17 election. As used in this subsection, "eligible member" means a
18 member of a uniformed service on active duty or a member of the
19 merchant marine, as described in subsection (6) or (13).

20 **(18) If the absent voter ballot return envelope containing a**
21 **marked absent voter ballot for an absent uniformed services voter**
22 **or overseas voter is postmarked on or before election day and the**
23 **absent voter ballot is received by mail by the city or township**
24 **clerk within 6 days after the election, the city or township clerk**
25 **shall consider that absent voter ballot timely received. If the**
26 **absent voter ballot return envelope containing a marked absent**
27 **voter ballot for an absent uniformed services voter or overseas**
28 **voter is received by mail by the city or township clerk within 6**
29 **days after the election and the postmark on the absent voter ballot**

1 return envelope is missing or unclear, but the absent voter ballot
 2 return envelope or the voter certificate is dated on or before
 3 election day by the absent uniformed services voter or overseas
 4 voter, the city or township clerk shall consider that absent voter
 5 ballot as timely received. Not later than the seventh day after
 6 election day, each city or township clerk shall forward the absent
 7 voter ballots timely received after the election as provided under
 8 this subsection to the board of county canvassers of the county in
 9 which the city or township is located to be tabulated. As used in
 10 this subsection, "postmark" means any type of mark applied by the
 11 United States Postal Service or any delivery service to the absent
 12 voter ballot return envelope, including, but not limited to, a bar
 13 code or any tracking marks that indicate when a ballot was mailed.

14 (19) ~~(18)~~—As used in this section:

15 (a) "Absent uniformed services voter" means any of the
 16 following:

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

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

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

27 (b) "Member of the merchant marine" means an individual, other
 28 than a member of a uniformed service or an individual employed,
 29 enrolled, or maintained on the Great Lakes or the inland waterways,

1 who is either of the following:

2 (i) Employed as an officer or crew member of a vessel
3 documented under the laws of the United States, a vessel owned by
4 the United States, or a vessel of foreign-flag registry under
5 charter to or control of the United States.

6 (ii) Enrolled with the United States for employment or training
7 for employment, or maintained by the United States for emergency
8 relief service, as an officer or crew member of a vessel documented
9 under the laws of the United States, a vessel owned by the United
10 States, or a vessel of foreign-flag registry under charter to or
11 control of the United States.

12 (c) "Overseas voter" means any of the following:

13 (i) An absent uniformed services voter who, by reason of active
14 duty or service, is absent from the United States on the date of an
15 election.

16 (ii) An individual who resides outside of the United States and
17 is qualified to vote in the last place in which the individual was
18 domiciled before leaving the United States.

19 (iii) An individual who resides outside of the United States and
20 who, but for such residence outside of the United States, would be
21 qualified to vote in the last place in which the individual was
22 domiciled before leaving the United States.

23 (d) "Uniformed services" means the Army, Navy, Air Force,
24 Marine Corps, Space Force, or Coast Guard, the Commissioned Corps
25 of the Public Health Service, the Commissioned Corps of the
26 National Oceanic and Atmospheric Administration, a reserve
27 component of a uniformed service, or the Michigan National Guard as
28 that term is defined in section 105 of the Michigan military act,
29 1967 PA 150, MCL 32.505.

1 Sec. 764a. The following instructions for an absent voter must
2 be included with each ballot or set of ballots furnished an absent
3 voter:

4 INSTRUCTIONS FOR ABSENT VOTERS

5 Step 1. Enclosed you will find voting instructions as to the
6 method of voting. Read these carefully and then vote the ballot.

7 Step 2. After voting a ballot, place the ballot in the secrecy
8 sleeve, if any. If a secrecy sleeve is not provided, refold the
9 ballot to conceal your votes.

10 Step 3. Place the ballot or ballots in the return envelope and
11 securely seal the envelope.

12 Step 4. Sign and date the return envelope in the place
13 designated. Your signature must appear on the return envelope or
14 the ballot will not be counted. If you are disabled or otherwise
15 unable to mark the ballot and required assistance in voting your
16 absent voter ballot, have the individual who assisted you complete
17 the section on the return envelope entitled "TO BE COMPLETED ONLY
18 IF VOTER IS ASSISTED IN VOTING BY ANOTHER INDIVIDUAL".

19 Step 5. Deliver the return envelope by 1 of the following
20 methods:

21 (a) Place the necessary postage upon the return envelope and
22 deposit it in the United States mail or with another public postal
23 service, express mail service, parcel post service, or common
24 carrier.

25 (b) Deliver the envelope personally to the office of the
26 clerk, to the clerk, or to an authorized assistant of the clerk, or
27 to a secure drop box located in the city or township.

28 (c) In either (a) or (b), a member of the immediate family of
29 the voter including a father-in-law, mother-in-law, brother-in-law,

1 sister-in-law, son-in-law, daughter-in-law, grandparent, or
2 grandchild or an individual residing in the voter's household may
3 mail or deliver a ballot to the clerk for the voter.

4 (d) You may request by telephone that the clerk who issued the
5 ballot provide assistance in returning the ballot. The clerk is
6 required to provide assistance if you are unable to return your
7 absent voter ballot as specified in (a), (b), or (c) above, if it
8 is before 5 p.m. on the Friday immediately preceding the election,
9 and if you are asking the clerk to pick up the absent voter ballot
10 within the jurisdictional limits of the city, township, or village
11 in which you are registered. Your absent voter ballot will then be
12 picked up by the clerk or an election assistant sent by the clerk.
13 All individuals authorized to pick up absent voter ballots are
14 required to carry credentials issued by the clerk. If using this
15 absent voter ballot return method, do not give your ballot to
16 anyone until you have checked their credentials.

17 Step 6. The ballot must reach the clerk or an authorized
18 assistant of the clerk before the close of the polls on election
19 day. An absent voter ballot received by the clerk or **authorized**
20 assistant of the clerk after the close of the polls on election day
21 will not be counted. **For an absent uniformed services voter or**
22 **overseas voter, the absent voter ballot return envelope containing**
23 **a marked absent voter ballot must be postmarked on or before**
24 **election day and must reach the clerk or authorized assistant of**
25 **the clerk within 6 days after the election. If the absent voter**
26 **ballot return envelope containing an absent voter ballot for an**
27 **absent uniformed services voter or overseas voter is received by**
28 **mail by the clerk or authorized assistant of the clerk more than 6**
29 **days after the election or is postmarked after election day, the**

1 **absent voter ballot will not be counted.**

2 WARNING

3 All of the following actions are violations of the Michigan
4 election law and are illegal in this state:

5 (1) To vote an absent voter ballot at a meeting or gathering
6 at which other individuals are voting absent voter ballots.

7 (2) For an individual who is assisting an absent voter in
8 marking the ballot to suggest or in any manner attempt to influence
9 the absent voter on how ~~he or she~~ **the absent voter** should vote.

10 (3) For an individual who is present and knows that an
11 individual is voting an absent voter ballot to suggest or in any
12 manner attempt to influence the absent voter on how ~~he or she~~ **the**
13 **absent voter** should vote.

14 (4) For an individual other than those listed in these
15 instructions to return, offer to return, agree to return, or
16 solicit to return an absent voter ballot to the clerk.

17 (5) For an individual other than the absent voter; an
18 individual listed in these instructions; or an individual whose job
19 it is to handle mail before, during, or after being transported by
20 a public postal service, express mail service, parcel post service,
21 or common carrier, but only during the normal course of ~~his or her~~
22 **the individual's** employment to be in possession of a voted or
23 unvoted absent voter ballot.