

SENATE BILL NO. 259

April 11, 2023, Introduced by Senator WOJNO and referred to the Committee on Elections and Ethics.

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

1 overseas voter who is not registered, but possessed the
2 qualifications of an elector under section 492, may apply for
3 registration by using the federal postcard application. The
4 department of state, bureau of elections, is responsible for
5 disseminating information on the procedures for registering and
6 voting to an absent uniformed services voter and an overseas voter.

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

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

24 (4) An absent uniformed services voter or an overseas voter,
25 whether or not registered to vote, may apply for an absent voter
26 ballot. Upon receipt of an application for an absent voter ballot
27 under this section that complies with this act, a county, city, or
28 township clerk shall forward to the applicant the absent voter
29 ballots requested, the forms necessary for registration, and

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

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

27 (6) Upon the request of an absent uniformed services voter or
28 overseas voter, the clerk of a county, city, or township shall
29 electronically transmit an absent voter ballot to the voter. Except

1 as otherwise provided in this subsection, the voter shall print the
2 absent voter ballot and return the voted ballot by mail to the
3 appropriate clerk. Subject to subsection (17), beginning January 1,
4 2024, a member of a uniformed service on active duty, by reason of
5 being on active duty, or a member of the merchant marine, by reason
6 of service in the merchant marine, who is absent from the United
7 States and does not expect to return to the residence where the
8 member is otherwise qualified to vote before an election may
9 electronically return a voted ballot to the appropriate city or
10 township clerk to be counted under the ~~rules promulgated by the~~
11 ~~secretary of state~~ **policies and procedures** as set forth in
12 subsection (17).

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

25 (8) The secretary of state shall modify the printed statement
26 provided under section 761(4) and the absent voter ballot
27 instructions provided under section 764a as appropriate to
28 accommodate the procedures developed for electronically
29 transmitting an absent voter ballot to an absent uniformed services

1 voter or overseas voter. A statement must be included in the
2 certificate signed by the absent voter who obtained an absent voter
3 ballot through an electronic transmission that the secrecy of the
4 absent voter ballot may be compromised during the duplication
5 process. The absent voter ballot instructions provided to an absent
6 uniformed services voter or overseas voter must include the proper
7 procedures for returning the absent voter ballot to the appropriate
8 clerk.

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

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

29 (11) An email address provided by an absent uniformed services

1 voter or overseas voter for the purposes of this section is
2 confidential and exempt from disclosure under the freedom of
3 information act, 1976 PA 442, MCL 15.231 to 15.246.

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

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

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

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

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

1 written explanation to file a written explanation, describing the
2 remedial actions taken by the city or township clerk, within 1
3 business day after the state bureau of elections notifies the clerk
4 of that city or township.

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

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

28 (17) The secretary of state shall ~~promulgate rules that~~
29 establish policies and procedures for the electronic return of

1 voted ballots by eligible members. In ~~promulgating rules that~~
2 ~~establish~~**establishing** the policies and procedures for the
3 electronic return of voted ballots by eligible members, the
4 secretary of state shall require an eligible member to use a United
5 States Department of Defense verified electronic signature, as that
6 term is defined in section 18a, so that the identity of the
7 eligible member can be verified utilizing those policies and
8 procedures. A member who is unable or unwilling to provide a United
9 States Department of Defense verified electronic signature is not
10 eligible to electronically return a voted ballot. The secretary of
11 state shall take reasonable steps to ensure the integrity and
12 secrecy of voted ballots returned electronically. The secretary of
13 state may develop and maintain a secure web portal on the secretary
14 of state's website to facilitate the electronic return of voted
15 ballots by eligible members. Only the secretary of state or the
16 secretary of state's duly authorized agent, a city or township
17 clerk, the clerk's deputy clerk, or a sworn member of the clerk's
18 staff is authorized to access the secure web portal on the
19 secretary of state's website. No later than January 1, 2024, the
20 secretary of state shall ~~promulgate rules pursuant to the~~
21 ~~administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to~~
22 ~~24.328,~~**establish policies and procedures** to implement this
23 subsection, and the secretary of state must allow for the
24 electronic return of voted ballots by eligible members starting no
25 later than the 2024 statewide presidential primary election. As
26 used in this subsection, "eligible member" means a member of a
27 uniformed service on active duty or a member of the merchant
28 marine, as described in subsection (6) or (13).

29 **(18) If the absent voter ballot return envelope containing a**

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

23 (19) ~~(18)~~—As used in this section:

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

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

29 (ii) A member of the merchant marine who, by reason of service

1 in the merchant marine, is absent from the place of residence where
2 the member is otherwise qualified to vote.

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

7 (b) "Member of the merchant marine" means an individual, other
8 than a member of a uniformed service or an individual employed,
9 enrolled, or maintained on the Great Lakes or the inland waterways,
10 who is either of the following:

11 (i) Employed as an officer or crew member of a vessel
12 documented under the laws of the United States, a vessel owned by
13 the United States, or a vessel of foreign-flag registry under
14 charter to or control of the United States.

15 (ii) Enrolled with the United States for employment or training
16 for employment, or maintained by the United States for emergency
17 relief service, as an officer or crew member of a vessel documented
18 under the laws of the United States, a vessel owned by the United
19 States, or a vessel of foreign-flag registry under charter to or
20 control of the United States.

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

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

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

28 (iii) An individual who resides outside of the United States and
29 who, but for such residence outside of the United States, would be

1 qualified to vote in the last place in which the individual was
2 domiciled before leaving the United States.

3 (d) "Uniformed services" means the Army, Navy, Air Force,
4 Marine Corps, Space Force, or Coast Guard, the Commissioned Corps
5 of the Public Health Service, the Commissioned Corps of the
6 National Oceanic and Atmospheric Administration, a reserve
7 component of a uniformed service, or the Michigan National Guard as
8 that term is defined in section 105 of the Michigan military act,
9 1967 PA 150, MCL 32.505.

10 Sec. 764a. The following instructions for an absent voter must
11 be included with each ballot or set of ballots furnished an absent
12 voter:

13 INSTRUCTIONS FOR ABSENT VOTERS

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

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

19 Step 3. Place the ballot or ballots in the return envelope and
20 securely seal the envelope.

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

28 Step 5. Deliver the return envelope by 1 of the following
29 methods:

1 (a) Place the necessary postage upon the return envelope and
2 deposit it in the United States mail or with another public postal
3 service, express mail service, parcel post service, or common
4 carrier.

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

8 (c) In either (a) or (b), a member of the immediate family of
9 the voter including a father-in-law, mother-in-law, brother-in-law,
10 sister-in-law, son-in-law, daughter-in-law, grandparent, or
11 grandchild or an individual residing in the voter's household may
12 mail or deliver a ballot to the clerk for the voter.

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

26 Step 6. The ballot must reach the clerk or an authorized
27 assistant of the clerk before the close of the polls on election
28 day. An absent voter ballot received by the clerk or **authorized**
29 assistant of the clerk after the close of the polls on election day

1 will not be counted. **For an absent uniformed services voter or**
 2 **overseas voter, the absent voter ballot return envelope containing**
 3 **a marked absent voter ballot must be postmarked on or before**
 4 **election day and must reach the clerk or authorized assistant of**
 5 **the clerk within 6 days after the election. If the absent voter**
 6 **ballot return envelope containing an absent voter ballot for an**
 7 **absent uniformed services voter or overseas voter is received by**
 8 **mail by the clerk or authorized assistant of the clerk more than 6**
 9 **days after the election or is postmarked after election day, the**
 10 **absent voter ballot will not be counted.**

11 WARNING

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

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

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

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

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

26 (5) For an individual other than the absent voter; an
 27 individual listed in these instructions; or an individual whose job
 28 it is to handle mail before, during, or after being transported by
 29 a public postal service, express mail service, parcel post service,

1 or common carrier, but only during the normal course of ~~his or her~~
2 **the individual's** employment to be in possession of a voted or
3 unvoted absent voter ballot.