

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.759a Absent uniformed services voter or overseas voter; electronic transmission of voter registration or ballot application; requirements; spouse or dependent; electronic transmission of ballot to voter; establishment and implementation of procedures by secretary of state; confidentiality of electronic mailing address; approval of ballot form and registration procedures by state director of elections; use of federal write-in absentee ballot; report; selection of political party ballot for presidential primary election; extension of ballot receipt deadline; definitions.

Sec. 759a. (1) An absent uniformed services voter or an overseas voter who is not registered, but possessed the qualifications of an elector under section 492, may apply for registration by using the federal postcard application. The department of state, bureau of elections, is responsible for disseminating information on the procedures for registering and voting to an absent uniformed services voter and an overseas voter.

(2) Upon the request of an absent uniformed services voter or an overseas voter, the clerk of a county, city, township, or village shall electronically transmit a blank voter registration application or blank absent voter ballot application to the voter. The clerk of a county, city, township, or village shall accept a completed voter registration application or completed absent voter ballot application electronically transmitted by an absent uniformed services voter or overseas voter. A voter registration application or absent voter ballot application submitted by an absent uniformed services voter or overseas voter shall contain the signature of the voter.

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

(4) An absent uniformed services voter or an overseas voter, whether or not registered to vote, may apply for an absent voter ballot. Upon receipt of an application for an absent voter ballot under this section that complies with this act, a county, city, village, or township clerk shall forward to the applicant the absent voter ballots requested, the forms necessary for registration, and instructions for completing the forms. If the ballots are not yet available at the time of receipt of the application, the clerk shall immediately forward to the applicant the registration forms and instructions, and forward the ballots as soon as they are available. If a federal postcard application or an application from the official United States department of defense website is filed, the clerk shall accept the federal postcard application or the application from the official United States department of defense website as the registration application and shall not send any additional registration forms to the applicant. If the ballots and registration forms are received before the close of the polls on election day and if the registration complies with the requirements of this act, the absent voter ballots shall be delivered to the proper election board to be tabulated. If the registration does not comply with the requirements of this act, the clerk shall retain the absent voter ballots until the expiration of the time that the voted ballots must be kept and shall then destroy the ballots without opening the envelope. The clerk may retain registration forms completed under this section in a separate file. The address in this state shown on a registration form is the residence of the registrant.

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

(6) Upon the request of an absent uniformed services voter or overseas voter, the clerk of a county, city, township, or village shall electronically transmit an absent voter ballot to the voter. The voter shall print the absent voter ballot and return the voted ballot by mail to the appropriate clerk.

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

(8) The secretary of state shall modify the printed statement provided under section 761(4) and the absent voter ballot instructions provided under section 764a as appropriate to accommodate the procedures developed for electronically transmitting an absent voter ballot to an absent uniformed services voter or overseas voter. A statement shall be included in the certificate signed by the absent voter who obtained his or

her absent voter ballot through an electronic transmission that the secrecy of the absent voter ballot may be compromised during the duplication process. The absent voter ballot instructions provided to an absent uniformed services voter or overseas voter shall include the proper procedures for returning the absent voter ballot to the appropriate clerk.

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

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

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

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

(13) An absent uniformed services voter or an overseas voter may use the federal write-in absentee ballot, in accordance with the provisions of the uniformed and overseas citizens absentee voting act, at a regular election or special election to vote for a local, state, or federal office or on a ballot question. An absent uniformed services voter or an overseas voter who uses the federal write-in absentee ballot shall return his or her voted federal write-in absentee ballot by mail to the appropriate clerk. The state bureau of elections shall do both of the following:

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

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

(14) The clerk of a city, village, or township shall submit to the county clerk of the county in which that city, village, or township is located a written statement no later than 45 days before each election indicating whether absent voter ballots were issued to absent uniformed services voters or overseas voters in compliance with this section and the uniformed and overseas citizens absentee voting act. The city, village, or township clerk shall provide to the county clerk a written explanation describing remedial actions taken by the city, village, or township clerk if the city, village, or township clerk fails to comply with this section and the uniformed and overseas citizens absentee voting act. Not later than 42 days before each election, each county clerk shall submit to the state bureau of elections a written report compiled from the written statements submitted by the city, village, and township clerks. The written report shall identify the cities, villages, and townships that complied with the 45-day deadline under this subsection, the cities, villages, and townships that did not comply with the 45-day deadline under this subsection, but provided a written explanation, and those cities, villages, and townships that did not comply with the 45-day deadline under this subsection and that did not provide a written explanation. The state bureau of elections may require the clerk of a city, village, or township that did not comply with the 45-day deadline under this subsection, but provided a written explanation, to provide additional information. The state bureau of elections shall require the clerk of a city, village, or township that did not comply with the 45-day deadline and that did not provide a written explanation to file a written explanation, describing the remedial actions taken by the city, village, or township clerk, within 1 business day after the state bureau of elections notifies the clerk of that city, village, or township.

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

election, offering the elector the opportunity to select a political party ballot for the presidential primary election.

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

(17) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

(d) "Uniformed services" means the army, navy, air force, marine corps, coast guard, the commissioned corps of the public health service, the commissioned corps of the national oceanic and atmospheric administration, a reserve component of a uniformed service, or the Michigan national guard as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

History: Add. 1956, Act 21, Imd. Eff. Mar. 22, 1956;—Am. 1971, Act 68, Eff. Oct. 1, 1971;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 605, Imd. Eff. Jan. 3, 2007;—Am. 2010, Act 50, Eff. June 1, 2010;—Am. 2011, Act 163, Imd. Eff. Oct. 4, 2011;—Am. 2012, Act 279, Eff. Aug. 15, 2012;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

Compiler's note: See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

Popular name: Election Code