

SENATE BILL No. 1433

September 14, 2006, Introduced by Senator McMANUS and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 759, 759b, 761, and 764b (MCL 168.759, 168.759b, 168.761, and 168.764b), section 759 as amended by 1995 PA 261, section 761 as amended by 2005 PA 71, and section 764b as amended by 1996 PA 207.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 759. (1) At any time during the 75 days before a
2 primary or special primary, but not later than 2 p.m. of the
3 Saturday immediately before the primary or special primary, an
4 elector who qualifies to vote as an absent voter, as defined in
5 section 758, may apply for an absent voter ballot. The elector
6 shall apply in person or by mail with the clerk of the township,

1 city, or village in which the elector is registered. An
2 application received before a primary or special primary may be
3 for either that primary only, or for that primary and the
4 election that follows.

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

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

14 (a) By a written request signed by the voter stating the
15 statutory grounds for making the application.

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

18 (c) On a federal postcard application.

19 (4) An applicant for an absent voter ballot shall sign the
20 application. A clerk or assistant clerk shall not deliver an
21 absent voter ballot to an applicant who does not sign the
22 application. A person ~~other than~~ **SHALL NOT BE IN POSSESSION OF**
23 **A SIGNED ABSENT VOTER BALLOT APPLICATION EXCEPT FOR** the
24 applicant; a member of the applicant's immediate family; a person
25 residing in the applicant's household; a person whose job
26 normally includes the handling of mail, but only during the
27 course of his or her employment; a registered elector requested

1 by the applicant **TO RETURN THE APPLICATION**; or a clerk,
 2 **AUTHORIZED** assistant of the clerk, or other authorized election
 3 official. ~~shall not be in possession of a signed absent voter~~
 4 ~~ballot application.~~ **AN AUTHORIZED ASSISTANT OF A CITY, TOWNSHIP,**
 5 **OR VILLAGE CLERK SHALL NOT SOLICIT TO RETURN AN ABSENT VOTER**
 6 **BALLOT APPLICATION TO THE CLERK.** A registered elector **OR AN**
 7 **AUTHORIZED ASSISTANT OF A CITY, TOWNSHIP, OR VILLAGE CLERK** who is
 8 requested by the applicant to return his or her absent voter
 9 ballot application shall sign the certificate on the absent voter
 10 ballot application.

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

17 "Application for absent voter ballot for:

18 [] The primary or special primary election to be held on
 19 ~~....., 19...~~ _____ (DATE) .

20 [] The election to be held on ~~....., 19...~~ _____
 21 (DATE) .

22 (Check applicable election or elections)

23 I, , a qualified and registered elector of the
 24 precinct of the township of or village of
 25 or of the ward of the city of ,
 26 in the county of and state of Michigan, apply for an
 27 official ballot, or ballots, to be voted by me at the election or

1 elections as requested in this application.

2 The statutory grounds on which I base my request are:

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

6 [] I am physically unable to attend the polls without the
7 assistance of another.

8 [] I cannot attend the polls because of the tenets of my
9 religion.

10 [] I have been appointed an election precinct inspector in a
11 precinct other than the precinct where I reside.

12 [] I am 60 years of age or older.

13 [] I cannot attend the polls because I am confined to jail
14 awaiting arraignment or trial.

15 (Check applicable reason)

16 Send absent voter ballot to me at:

17

18 (Street No. or R.R.)

19

20 (Post Office) (State) (ZIP CODE)

21 My registered address.....

22 (Street No. or R.R.)

23

24 (Post Office) (State) (ZIP CODE)

25 Date

26 I ~~declare~~ **CERTIFY** that the statements in this absent voter
27 ballot application are true.

1
2

(Signature)

3 WARNING

4 A person making a false statement in this absent voter
5 ballot application is guilty of a misdemeanor. It is a violation
6 of Michigan election law for a person other than those listed in
7 the instructions to return, offer to return, agree to return, or
8 solicit to return your absent voter ballot application to the
9 clerk. **IT IS A VIOLATION OF MICHIGAN ELECTION LAW FOR AN**
10 **AUTHORIZED ASSISTANT OF A CITY, TOWNSHIP, OR VILLAGE CLERK TO**
11 **SOLICIT TO RETURN YOUR ABSENT VOTER BALLOT APPLICATION TO THE**
12 **CLERK.** An ~~assistant~~ authorized ~~by~~ **ASSISTANT OF** the clerk who
13 receives absent voter ballot applications at a location other
14 than the **CLERK'S** office ~~of the clerk~~ must have credentials
15 signed by the clerk. Ask to see his or her credentials before
16 entrusting your application with a person claiming to have the
17 clerk's authorization to return your application.

18 Certificate of Authorized Registered

19 Elector **OR AUTHORIZED ASSISTANT OF THE CLERK**

20 Returning Absent Voter Ballot Application

21 I certify that my name is, my address
22 is, and my date of birth is;
23 that I am delivering the absent voter ballot application of
24 at his or her request; that I did not
25 solicit or request to return the application; that I have not
26 made any markings on the application; that I have not altered the
27 application in any way; that I have not influenced the applicant;

1 and that I am aware that a false statement in this certificate is
 2 a violation of Michigan election law.

3 _____
 4 (Date) (Signature)"

5 (6) The following instructions for an applicant for an
 6 absent voter ballot shall be included with each application
 7 furnished an applicant:

8 INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

9 Step 1. After completely filling out the application, sign
 10 and date the application in the place designated. Your signature
 11 must appear on the application or you will not receive an absent
 12 voter ballot.

13 Step 2. Deliver the application by 1 of the following
 14 methods:

15 (a) Place the application in an envelope addressed to the
 16 appropriate clerk and place the necessary postage upon the return
 17 envelope and deposit it in the United States mail or with another
 18 public postal service, express mail service, parcel post service,
 19 or common carrier.

20 (b) Deliver the application personally to the **CLERK'S**
 21 office, ~~of the clerk,~~ to the clerk, or to an authorized
 22 assistant of the clerk.

23 (c) In either (a) or (b), a member of the immediate family
 24 of the voter including a father-in-law, mother-in-law, brother-
 25 in-law, sister-in-law, son-in-law, daughter-in-law, grandparent,
 26 or grandchild or a person residing in the voter's household may

1 mail or deliver the application to the clerk for the applicant.

2 (d) ~~In the event~~ **IF** an applicant cannot return the
3 application in any of the above methods, the applicant may select
4 any registered elector **OR AN AUTHORIZED ASSISTANT OF A CITY,**
5 **TOWNSHIP, OR VILLAGE CLERK** to return the application. The person
6 returning the application must sign and return the certificate at
7 the bottom of the application.

8 (7) A person who prints and distributes absent voter ballot
9 applications shall print on the application the warning,
10 certificate of authorized registered elector **OR AUTHORIZED**
11 **ASSISTANT OF THE CLERK** returning absent voter ballot application,
12 and instructions required by this section.

13 (8) A person who makes a false statement in an absent voter
14 ballot application is guilty of a misdemeanor. A person who
15 forges a signature on an absent voter ballot application is
16 guilty of a felony. A person who is not authorized in this act
17 and who both distributes absent voter ballot applications to
18 absent voters and returns those absent voter ballot applications
19 to a clerk or assistant of the clerk is guilty of a misdemeanor.

20 Sec. 759b. (1) ~~Any~~ **A** registered elector may apply for **AN**
21 absent voter ~~ballots~~ **BALLOT** at any time ~~prior to~~ **BEFORE** 4
22 p.m. on election day if he **OR SHE** shall have become physically
23 disabled or shall be absent from the city or township because of
24 sickness or death in the family which has occurred at a time
25 ~~which~~ **THAT** has made it impossible to apply for **AN** absent voter
26 ~~ballots~~ **BALLOT** by the statutory deadline. The application shall
27 be called an emergency absent voter **BALLOT** application.

1 (2) Emergency absent voter **BALLOT** applications may be made
 2 by letter or on a form provided by the clerk. The application
 3 shall set forth that the voter is qualified to vote in the
 4 election, stating the statutory reason for applying for an
 5 emergency absent voter ballot and that the reason for applying
 6 after the statutory deadline occurred at such a time to make it
 7 impossible to file an application for **AN** absent voter ~~ballots~~
 8 **BALLOT** by the statutory deadline.

9 (3) ~~Any~~ **A** person intentionally making a false statement in
 10 ~~such~~ **AN EMERGENCY ABSENT VOTER BALLOT** application is guilty of a
 11 felony. ~~Any~~ **A** person aiding or abetting ~~any~~ **ANOTHER** person to
 12 make a false statement ~~on such~~ **IN AN EMERGENCY ABSENT VOTER**
 13 **BALLOT** application is guilty of a felony.

14 (4) Upon receipt by the clerk of a valid application for an
 15 emergency absent voter ballot, the clerk may deliver the ~~ballots~~
 16 **ABSENT VOTER BALLOT** to the applicant in person ~~—~~ **OR** through a
 17 deputy or an election assistant, or ~~he~~ **THE CLERK** may deliver
 18 ~~them~~ **THE ABSENT VOTER BALLOT** at his **OR HER** office to ~~a person~~
 19 ~~named by the applicant in the application~~ **THE APPLICANT**. The
 20 **ABSENT** voter may return the ~~ballots~~ **ABSENT VOTER BALLOT** to the
 21 clerk in the sealed envelope provided ~~therefor~~ in any manner.
 22 ~~he sees fit. To~~ **HOWEVER, TO** be valid, ~~ballots~~ **AN ABSENT VOTER**
 23 **BALLOT** must be returned to the clerk in time to be delivered to
 24 the polls ~~prior to~~ **BEFORE** 8 p.m. on election day.

25 Sec. 761. (1) If the clerk of a city, township, or village
 26 receives an application for an absent voter ballot from a person
 27 registered to vote in that city, township, or village and if the

1 signature on the application agrees with the signature for the
2 person contained in the qualified voter file or on the
3 registration card as required in subsection (2), the clerk
4 immediately upon receipt of the application or, if the
5 application is received before the printing of the absent voter
6 ballots, as soon as the ballots are received by the clerk, shall
7 forward by mail, postage prepaid, or shall deliver personally 1
8 of the ballots or set of ballots if there is more than 1 kind of
9 ballot to be voted to the applicant. Absent voter ballots may be
10 delivered to an applicant in person at the CLERK'S office. ~~of~~
11 ~~the clerk.~~ **AN ABSENT VOTER BALLOT SHALL NOT BE DELIVERED IN**
12 **PERSON TO AN APPLICANT AT A LOCATION OTHER THAN THE CLERK'S**
13 **OFFICE UNLESS THAT IS THE ONLY WAY TO ENSURE THE TIMELY RETURN OF**
14 **THE ABSENT VOTER BALLOT TO THE CLERK'S OFFICE. AN ABSENT VOTER**
15 **BALLOT DELIVERED IN PERSON BY A CLERK OR AUTHORIZED ASSISTANT OF**
16 **THE CLERK SHALL BE DELIVERED DIRECTLY TO THE ABSENT VOTER AND NOT**
17 **TO ANOTHER PERSON.**

18 (2) The qualified voter file shall be used to determine the
19 genuineness of a signature on an application for an absent voter
20 ballot. Signature comparisons shall be made with the digitized
21 signature in the qualified voter file. If the qualified voter
22 file does not contain a digitized signature of an elector, or is
23 not accessible to the clerk, the city or township clerk shall
24 compare the signature appearing on the application for an absent
25 voter ballot to the signature contained on the master card.

26 (3) Notwithstanding section 759, providing that no absent
27 voter applications shall be received by the clerk after 2 p.m. on

1 the Saturday before the election, a person qualified to vote as
2 an absent voter may apply in person at the clerk's office before
3 4 p.m. on a day preceding the election except Sunday or a legal
4 holiday to vote as an absent voter. The applicant shall receive
5 his or her absent voter ballot and vote the ballot in the clerk's
6 office. All other absent voter ballots, except ballots delivered
7 pursuant to an emergency absent voter ballot application under
8 section 759b, shall be mailed or delivered to the registration
9 address of the applicant unless the application requests delivery
10 to an address outside the city, village, or township or to a
11 hospital or similar institution, in which case the absent voter
12 ballots shall be mailed or delivered to the address given in the
13 application. However, a clerk may mail or deliver an absent voter
14 ballot, upon request of the absent voter, to a post office box if
15 the post office box is where the absent voter normally receives
16 personal mail and the absent voter does not receive mail at his
17 or her registration address.

18 (4) Absent voter ballots shall be issued in the same order
19 in which applications are received by the clerk of a city,
20 township, or village, as nearly as may be, and each **ABSENT VOTER**
21 ballot issued shall bear the lowest number of each kind available
22 for this purpose. However, this provision does not prohibit a
23 clerk from immediately issuing an absent voter ballot to an
24 absent voter who applies in person in the clerk's office for **AN**
25 absent voter ~~ballots~~ **BALLOT**. The clerk shall enclose with the
26 ballot or ballots a return envelope properly addressed to the
27 clerk and bearing upon the back of the envelope a printed

1 statement in substantially the following form:

2 TO BE COMPLETED
3 BY THE CLERK

4 _____

5 Name of Voter Street Address or R.R.

6 _____

7 City, Township or Village County

8 Ward _____ Precinct _____ Date of Election _____

9 =====

10 TO BE COMPLETED BY THE ABSENT VOTER

11 I assert that I am a qualified and registered elector of the
12 city, township, or village named above. I am voting as an absent
13 voter in conformity with state election law. Unless otherwise
14 indicated below, I personally marked the ballot enclosed in this
15 envelope without exhibiting it to any other person.

16 I further assert that this absent voter ballot is being
17 returned to the clerk or an **AUTHORIZED** assistant of the clerk by
18 me personally; by public postal service, express mail service,
19 parcel post service, or other common carrier; by a member of my
20 immediate family; or by a person residing in my household.

21 DATE: _____ SIGN HERE: X _____
22 Signature of Absent Voter

23 The above form must be signed or your vote will not be
24 counted. AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT
25 IS GUILTY OF A MISDEMEANOR.

1 =====

2 TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
3 BY ANOTHER PERSON

4 I assisted the above named absent voter who is disabled or
5 otherwise unable to mark the ballot in marking his or her absent
6 voter ballot pursuant to his or her directions. The absent voter
7 ballot was inserted in the return envelope without being
8 exhibited to any other person.

9 _____

10 Signature of Person Street Address or City, Twp., or
 Assisting Voter R.R. Village

11 _____

12 Printed Name of Person Assisting Voter

13 **A PERSON, INCLUDING AN AUTHORIZED ASSISTANT OF A CITY,
14 TOWNSHIP, OR VILLAGE CLERK, WHO IS REQUESTED TO ASSIST AN
15 ABSENT VOTER IN MARKING HIS OR HER ABSENT VOTER BALLOT SHALL
16 SIGN THE ABOVE FORM.**

17 A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A
18 FALSE STATEMENT IS GUILTY OF A FELONY.

19 =====

20 WARNING

1 PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER
2 BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER;
3 A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY
4 OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED
5 BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT
6 IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A
7 PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE,
8 OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR
9 HER EMPLOYMENT; AND THE CLERK, **AUTHORIZED** ASSISTANTS OF THE
10 CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY,
11 TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT. ANY OTHER PERSON IN
12 POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

13 (5) An absent voter who knowingly makes a false statement on
14 the absent voter ballot return envelope is guilty of a
15 misdemeanor. A person who assists an absent voter and who
16 knowingly makes a false statement on the absent voter ballot
17 return envelope is guilty of a felony.

18 (6) **AN AUTHORIZED ASSISTANT OF A CITY, TOWNSHIP, OR VILLAGE**
19 **CLERK SHALL NOT OFFER TO ASSIST AN ABSENT VOTER IN MARKING HIS OR**
20 **HER ABSENT VOTER BALLOT. AN AUTHORIZED ASSISTANT OF A CITY,**
21 **TOWNSHIP, OR VILLAGE CLERK WHO VIOLATES THIS SUBSECTION IS GUILTY**
22 **OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93**
23 **DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.**

24 Sec. 764b. (1) An absent voter ballot shall be delivered to
25 the clerk only as authorized in the instructions for an absent
26 voter provided in section 764a.

27 (2) The clerk of a city, township, or village may accept

1 delivery of absent voter ballots at any location in the city,
2 township, or village.

3 **(3) THE CLERK OF A CITY, TOWNSHIP, OR VILLAGE, AN AUTHORIZED**
4 **ASSISTANT OF A CITY, TOWNSHIP, OR VILLAGE CLERK, OR ANY OTHER**
5 **AUTHORIZED ELECTION OFFICIAL SHALL NOT CONTACT A VOTER IN PERSON**
6 **OR BY TELEPHONE TO OFFER TO RETURN HIS OR HER ABSENT VOTER**
7 **BALLOT. A CLERK, AUTHORIZED ASSISTANT OF THE CLERK, OR OTHER**
8 **AUTHORIZED ELECTION OFFICIAL WHO VIOLATES THIS SUBSECTION IS**
9 **GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE**
10 **THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.**

11 **(4) —(3)—** The clerk of a city, township, or village may
12 appoint the number of assistants necessary to accept delivery of
13 absent voter ballots at any location in the city, township, or
14 village. An appointment as assistant to accept delivery of absent
15 voter ballots shall be for 1 election only. An assistant
16 appointed to receive ballots at a location other than the **CLERK'S**
17 office ~~of the clerk~~ shall be furnished credentials of authority
18 by the clerk. If an absent voter's ballot is received by an
19 **AUTHORIZED assistant OF THE CLERK** at any location other than the
20 clerk's office, the **AUTHORIZED assistant OF THE CLERK**, upon
21 request, shall exhibit the credentials to the absent voter before
22 the **AUTHORIZED assistant OF THE CLERK** accepts an absent voter
23 ballot. An **AUTHORIZED assistant OF THE CLERK**, before entering
24 upon the discharge of duties, shall take and subscribe to the
25 oath of office as provided in section 1 of article XI of the
26 state constitution of 1963. An **AUTHORIZED assistant OF THE CLERK**
27 shall perform only the duties assigned by the clerk. A person

1 shall not be appointed as an **AUTHORIZED** assistant **OF THE CLERK** to
2 accept delivery of absent voter ballots who is a candidate or a
3 member of the immediate family of a candidate whose name appears
4 on the ballot at that election.

5 (5) ~~—(4)—~~ A clerk who receives a request from an absent
6 voter under section 764a for assistance in returning his or her
7 absent voter ballot shall make arrangements to collect the ballot
8 from the **ABSENT** voter either personally or by sending an
9 authorized assistant, if all of the following conditions are
10 satisfied:

11 (a) The clerk's office issued the absent voter ballot to
12 that absent voter.

13 (b) Upon the clerk's request, the absent voter states that
14 he or she is unable to return the absent voter ballot by the
15 other means specified in instructions (a), (b), or (c) of Step 5
16 under section 764a.

17 (c) The absent voter telephones the appropriate clerk for
18 assistance on or before 5 p.m. on the Friday immediately
19 ~~preceding~~ **BEFORE** the election.

20 (d) The absent voter is requesting the clerk to pick up the
21 absent voter ballot within the jurisdictional limits of the city,
22 township, or village in which the absent voter is registered.

23 (6) ~~—(5)—~~ Notwithstanding subsection ~~—(4)—~~ (5), a clerk who
24 receives a request from an absent voter under section 764a for
25 assistance in returning his or her absent voter ballot may make
26 arrangements to collect the ballot from the voter either
27 personally or by sending an authorized assistant, if all of the

1 following conditions are satisfied:

2 (a) The clerk's office issued the absent voter ballot to
3 that absent voter.

4 (b) Upon the clerk's request, the absent voter states that
5 he or she is unable to return the absent voter ballot by the
6 other means specified in instructions (a), (b), or (c) of Step 5
7 under section 764a.

8 (7) ~~—(6)—~~ The clerk shall maintain a list open to the public
9 that contains the names and addresses of all authorized
10 assistants appointed under this section who are available to
11 collect absent voter ballots on or before election day in that
12 city, ~~or~~ township, **OR VILLAGE**.

13 (8) ~~—(7)—~~ An absent voter ballot received by the clerk
14 before the close of the polls on election day shall not be
15 invalidated solely because the delivery to the clerk was not in
16 compliance with section 764a or this section, however the ballot
17 shall be considered challenged and shall be marked and processed
18 as provided in section 745.