

**SUBSTITUTE FOR
HOUSE BILL NO. 5061**

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 761, 813, and 829 (MCL 168.761, 168.813, and
168.829), section 761 as amended by 2005 PA 71 and sections 813
and 829 as added by 2004 PA 92, and by adding sections 38 and
764c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 38. (1) THE SECRETARY OF STATE SHALL DEVELOP A POSTER**
2 **THAT EXPLAINS BALLOT COACHING AND THAT INDICATES THAT BALLOT**
3 **COACHING IS PROHIBITED.**

4 **(2) THE SECRETARY OF STATE SHALL PROVIDE TO EACH RESIDENTIAL**
5 **CARE FACILITY IN THIS STATE AT LEAST 1 POSTER AS DESCRIBED IN**
6 **SUBSECTION (1).**

7 **(3) FOR THE PERIOD BEGINNING 45 DAYS BEFORE EACH ELECTION**

1 AND CONTINUING THROUGH ELECTION DAY, THE OWNER, OPERATOR, OR
2 FACILITY DIRECTOR OF A RESIDENTIAL CARE FACILITY SHALL DISPLAY
3 THE POSTER PROVIDED BY THE SECRETARY OF STATE IN A PUBLIC AREA IN
4 THE RESIDENTIAL CARE FACILITY.

5 (4) AS USED IN THIS SECTION:

6 (A) "HOME FOR THE AGED" MEANS THAT TERM AS DEFINED IN
7 SECTION 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
8 333.20106.

9 (B) "NURSING HOME" MEANS THAT TERM AS DEFINED IN SECTION
10 20109 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20109.

11 (C) "RESIDENTIAL CARE FACILITY" MEANS BOTH OF THE FOLLOWING:

12 (i) HOME FOR THE AGED.

13 (ii) NURSING HOME.

14 Sec. 761. (1) If the clerk of a city, township, or village
15 receives an application for an absent voter ballot from a person
16 registered to vote in that city, township, or village and if the
17 signature on the application agrees with the signature for the
18 person contained in the qualified voter file or on the
19 registration card as required in subsection (2), the clerk
20 immediately upon receipt of the application or, if the
21 application is received before the printing of the absent voter
22 ballots, as soon as the ballots are received by the clerk, shall
23 forward by mail, postage prepaid, or shall deliver personally 1
24 of the ballots or set of ballots if there is more than 1 kind of
25 ballot to be voted to the applicant. ~~Absent~~ **SUBJECT TO THE**
26 **IDENTIFICATION REQUIREMENT IN SUBSECTION (6), ABSENT** voter
27 ballots may be delivered to an applicant in person at the office

1 of the clerk.

2 (2) The qualified voter file shall be used to determine the
3 genuineness of a signature on an application for an absent voter
4 ballot. Signature comparisons shall be made with the digitized
5 signature in the qualified voter file. If the qualified voter
6 file does not contain a digitized signature of an elector, or is
7 not accessible to the clerk, the city or township clerk shall
8 compare the signature appearing on the application for an absent
9 voter ballot to the signature contained on the master card.

10 (3) Notwithstanding section 759, providing that no absent
11 voter applications shall be received by the clerk after 2 p.m. on
12 the Saturday before the election, **AND SUBJECT TO THE**
13 **IDENTIFICATION REQUIREMENT IN SUBSECTION (6)**, a person qualified
14 to vote as an absent voter may apply in person at the clerk's
15 office before 4 p.m. on a day ~~preceding~~ **BEFORE** the election
16 except Sunday or a legal holiday to vote as an absent voter. The
17 applicant shall receive his or her absent voter ballot and vote
18 the ballot in the clerk's office. All other absent voter ballots,
19 except ballots delivered pursuant to an emergency absent voter
20 ballot application under section 759b, shall be mailed or
21 delivered to the registration address of the applicant unless the
22 application requests delivery to an address outside the city,
23 village, or township or to a hospital or similar institution, in
24 which case the absent voter ballots shall be mailed or delivered
25 to the address given in the application. However, a clerk may
26 mail or deliver an absent voter ballot, upon request of the
27 absent voter, to a post office box if the post office box is

1 where the absent voter normally receives personal mail and the
2 absent voter does not receive mail at his or her registration
3 address.

4 (4) Absent voter ballots shall be issued in the same order
5 in which applications are received by the clerk of a city,
6 township, or village, as nearly as may be, and each ballot issued
7 shall bear the lowest number of each kind available for this
8 purpose. However, this provision does not prohibit a clerk from
9 immediately issuing an absent voter ballot to an absent voter who
10 applies in person in the clerk's office for absent voter ballots.
11 The clerk shall enclose with the ballot or ballots a return
12 envelope properly addressed to the clerk and bearing upon the
13 back of the envelope a printed statement in substantially the
14 following form:

15 TO BE COMPLETED

16 BY THE CLERK

17 _____	_____
18 Name of Voter	Street Address or R.R.
19 _____	_____
20 City, Township or Village	County
21 Ward _____	Precinct _____ Date of Election _____

22 =====

23 TO BE COMPLETED BY THE ABSENT VOTER

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

1 I further assert that this absent voter ballot is being
2 returned to the clerk or an assistant of the clerk by me
3 personally; by public postal service, express mail service,
4 parcel post service, or other common carrier; by a member of my
5 immediate family; or by a person residing in my household.

6 DATE: _____ SIGN HERE: X _____
7 Signature of Absent Voter

8 The above form must be signed or your vote will not be counted.

9 AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY
10 OF A MISDEMEANOR.

11 =====

12 TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
13 BY ANOTHER PERSON

14 I assisted the above named absent voter who is disabled or
15 otherwise unable to mark the ballot in marking his or her absent
16 voter ballot pursuant to his or her directions. The absent voter
17 ballot was inserted in the return envelope without being
18 exhibited to any other person.

19 _____
20 Signature of Person Street Address City, Twp., or
21 Assisting Voter or R.R. Village

22 _____
23 Printed Name of Person Assisting Voter

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

26 =====

27 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, ASSISTANTS OF THE CLERK, AND OTHER
10 AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR
11 SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT
12 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) IF AN ELECTOR OBTAINS HIS OR HER ABSENT VOTER BALLOT IN
19 PERSON FROM THE CLERK OF THE CITY, TOWNSHIP, OR VILLAGE IN WHICH
20 HE OR SHE IS REGISTERED, THE CLERK OF THE CITY, TOWNSHIP, OR
21 VILLAGE SHALL NOT PROVIDE AN ABSENT VOTER BALLOT TO THAT ELECTOR
22 UNTIL THE ELECTOR IDENTIFIES HIMSELF OR HERSELF TO THE CLERK BY
23 PRESENTING AN OFFICIAL STATE IDENTIFICATION CARD ISSUED TO THAT
24 ELECTOR UNDER 1972 PA 222, MCL 28.291 TO 28.300, AN OPERATOR'S OR
25 CHAUFFEUR'S LICENSE ISSUED TO THAT ELECTOR UNDER THE MICHIGAN
26 VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923, OR OTHER
27 GENERALLY RECOGNIZED PICTURE IDENTIFICATION CARD. IF AN ELECTOR

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1 DOES NOT HAVE AN OFFICIAL STATE IDENTIFICATION CARD, OPERATOR'S
2 OR CHAUFFEUR'S LICENSE, OR OTHER GENERALLY RECOGNIZED PICTURE
3 IDENTIFICATION CARD, THE ELECTOR MAY SIGN AN AFFIDAVIT TO THAT
4 EFFECT BEFORE THE CLERK OF THE CITY, TOWNSHIP, OR VILLAGE AND BE
5 ALLOWED TO OBTAIN HIS OR HER ABSENT VOTER BALLOT IN PERSON FROM
6 THE CLERK. [THE CLERK OF THE CITY, VILLAGE, OR TOWNSHIP SHALL INDICATE
TO EACH ELECTOR WHO OBTAINS HIS OR HER ABSENT VOTER BALLOT IN PERSON
FROM THE CLERK THAT THE ELECTOR MAY SIGN AN AFFIDAVIT INDICATING THAT
THE ELECTOR DOES NOT HAVE AN OFFICIAL STATE IDENTIFICATION CARD,
OPERATOR'S OR CHAUFFEUR'S LICENSE, OR OTHER GENERALLY RECOGNIZED
PICTURE IDENTIFICATION CARD IN ORDER TO OBTAIN HIS OR HER ABSENT VOTER
BALLOT IN PERSON FROM THE CLERK.] HOWEVER, IF AN ELECTOR OBTAINS HIS OR
HER ABSENT VOTER
7 BALLOT IN PERSON FROM THE CLERK AND VOTES BY ABSENT VOTER BALLOT
8 WITHOUT PROVIDING THE IDENTIFICATION REQUIRED UNDER THIS
9 SUBSECTION, THE ABSENT VOTER BALLOT OF THAT ELECTOR SHALL BE
10 PREPARED AS A CHALLENGED BALLOT AS PROVIDED IN SECTION 727.

11 SEC. 764C. IF A CITY, TOWNSHIP, OR VILLAGE HAS ACCESS TO THE
12 BALLOT TRACKER PROGRAM PROVIDED BY THE STATE, THE CLERK OF THAT
13 CITY, TOWNSHIP, OR VILLAGE SHALL UTILIZE THE BALLOT TRACKER
14 PROGRAM AND ALLOW VOTERS TO TRACK THEIR ABSENT VOTER BALLOTS
15 ONLINE.

16 Sec. 813. (1) Within 6 days after ~~the~~AN election, for each
17 provisional ballot that was placed in a provisional ballot return
18 envelope, the city or township clerk shall determine whether the
19 individual voting the provisional ballot was eligible to vote a
20 ballot and whether to tabulate the provisional ballot. In making
21 this determination, the city or township clerk shall not open the
22 provisional ballot return envelope. A provisional ballot shall
23 only be tabulated if a valid voter registration record for the
24 elector is located or if the identity and residence of the
25 elector is established using a Michigan operator's license,
26 chauffeur's license, personal identification card, other

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27 government issued photo identification card, or a photo

1 identification card issued by an institution of higher education
2 in this state described in section 6 of article VIII of the state
3 constitution of 1963 or a junior college or community college
4 established under section 7 of article VIII of the state
5 constitution of 1963 along with a document to establish the
6 voter's current residence address as provided in section 523a(5).
7 Before the provisional ballot is tabulated, election officials
8 shall process the ballot as a challenged ballot under sections
9 745 and 746.

10 (2) Within 7 days after ~~the~~**AN** election, but sooner if
11 practicable, the city or township clerk shall transmit the
12 results of provisional ballots tabulated after the election to
13 the board of county canvassers. The results shall be transmitted
14 in a form prescribed by the secretary of state.

15 (3) Within 7 days after ~~the~~**AN** election, the city or
16 township clerk shall transmit to the county clerk a provisional
17 ballot report for each precinct in the jurisdiction. The report
18 shall include for each precinct the number of provisional ballots
19 issued, the number of provisional ballots tabulated on election
20 day, the number of provisional ballots forwarded to the clerk to
21 be determined after the election, the number of provisional
22 ballots tabulated by the clerk after election day, and any
23 additional information concerning provisional ballots as required
24 by the secretary of state.

25 (4) **WITHIN 7 DAYS AFTER AN ELECTION, THE CITY OR TOWNSHIP**
26 **CLERK SHALL TRANSMIT TO THE COUNTY CLERK AN AFFIDAVIT REPORT THAT**
27 **INCLUDES THE NUMBER OF AFFIDAVITS SIGNED BY VOTERS UNDER SECTION**

1 523(1). THE AFFIDAVIT REPORT SHALL BE TRANSMITTED TO THE COUNTY
2 CLERK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE.

3 Sec. 829. (1) The board of county canvassers shall include
4 the results of the tabulated provisional ballots in the canvass
5 of the election following procedures prescribed by the secretary
6 of state designed to maintain the secrecy of the ballot.

7 (2) Within 14 days after a primary or election, the county
8 clerk shall transmit a county provisional ballot report to the
9 secretary of state. The county provisional ballot report shall be
10 in a manner prescribed by the secretary of state. After the
11 secretary of state receives a county provisional ballot report,
12 the county provisional ballot report shall be immediately
13 available for public inspection.

14 (3) WITHIN 14 DAYS AFTER AN ELECTION, THE COUNTY CLERK SHALL
15 TRANSMIT A COUNTY AFFIDAVIT REPORT TO THE SECRETARY OF STATE. THE
16 COUNTY AFFIDAVIT REPORT SHALL INCLUDE THE NUMBER OF AFFIDAVITS
17 SIGNED BY VOTERS UNDER SECTION 523(1). THE COUNTY AFFIDAVIT
18 REPORT SHALL BE TRANSMITTED IN A FORM PRESCRIBED BY THE SECRETARY
19 OF STATE. AFTER THE SECRETARY OF STATE RECEIVES THE COUNTY
20 AFFIDAVIT REPORT FROM THE COUNTY CLERK, THE COUNTY AFFIDAVIT
21 REPORT SHALL IMMEDIATELY BE AVAILABLE FOR PUBLIC INSPECTION.