

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

***** 168.761.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2023 REGULAR SESSION SINE DIE *****

168.761.amended Absent voter ballots; mailing or delivering to applicant; rejection of application; notice; return envelope; form; statement; false statement as misdemeanor or felony; presenting of identification for election purposes; affidavit.

Sec. 761. (1) If the clerk of a city or township receives an application for an absent voter ballot, the clerk must immediately determine if the applicant is registered to vote in that city or township and if the signature on the application agrees sufficiently with the signature on file for the individual as required in subsection (2). The clerk must immediately, upon verification of the application or, if the application is received and verified before the printing of the absent voter ballots, as soon as the absent voter ballots are received by the clerk, forward by mail, postage prepaid, or deliver the absent voter ballot to the applicant. The clerk must include with the absent voter ballot a postage prepaid absent voter ballot return envelope. A clerk shall not send an absent voter ballot to an applicant by first-class mail after 5 p.m. on the fourth day before an election. If the clerk of a city or township receives an application for an absent voter ballot from an applicant who is a program participant, as that term is defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853, then the city or township clerk shall mail an absent voter ballot to that program participant at the designated address provided to that program participant by the department of the attorney general under the address confidentiality program act, 2020 PA 301, MCL 780.851 to 780.873. If the clerk of a city or township receives an absent voter ballot application after the deadline for a clerk to mail an absent voter ballot by first-class mail to the applicant under this subsection, and the clerk does not otherwise promptly provide the applicant with the absent voter ballot, the clerk must immediately notify the applicant that the applicant's absent voter ballot application was rejected as not timely received and notify the applicant of the alternative methods of voting available for that election. The clerk must notify the applicant by telephone, email, or text message, if available. In the absence of the applicant's telephone number or email address, the clerk must notify the applicant by United States mail. The clerk may also provide notice to the applicant by any other available methods of contact. Electronic notification of the rejection of the application under section 764c that provides the information required by this subsection constitutes sufficient notification to the applicant. However, an absent voter ballot application that is rejected must still be processed for any future elections indicated on that absent voter ballot application. If a county clerk receives an application for an absent voter ballot from an individual, the county clerk shall immediately forward that absent voter ballot application to the appropriate city or township clerk where that individual resides. If a city or township clerk receives an application for an absent voter ballot from an individual who is registered to vote in a different city or township, that clerk must immediately contact the individual to determine where the individual resides and should be registered to vote. If the city or township clerk determines that the individual is registered to vote in a different city or township, the city or township clerk must electronically forward the application to the clerk of the city or township in which the individual is registered.

(2) The signature on file must be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons must be made using the procedures required under section 766a. If the clerk of a city or township rejects an absent voter ballot application because the signature on the absent voter ballot application does not agree sufficiently with the signature on file or because the elector failed to sign the absent voter ballot application, the applicant must be provided notice and the opportunity to cure the deficiency as provided under section 766a. The notice must inform the applicant that the applicant must cure the deficiency by 4 p.m. on the fourth day before the election in order to receive an absent voter ballot by first-class mail. If the applicant cures the deficiency as provided under section 766a by 4 p.m. on the fourth day before the election, the clerk must immediately send an absent voter ballot and a postage prepaid absent voter ballot return envelope to the applicant as provided under subsection (1).

(3) Except as otherwise provided in this subsection, and except for ballots delivered pursuant to an emergency absent voter ballot application under section 759b, absent voter ballots must be mailed or delivered to the applicant at the applicant's registration address unless the applicant requests that the absent voter ballot be sent to a different address as provided on the applicant's absent voter ballot application. In addition, a clerk may mail or deliver an absent voter ballot, on request of the applicant, to a post office box if the post office box is where the applicant normally receives personal mail and the applicant does not receive mail at the applicant's registration address. Subject to subsections (6) and (7), an absent voter ballot may be delivered to an applicant in person at the clerk's office.

(4) The clerk shall enclose with the ballot a postage prepaid return envelope properly addressed to the clerk and bearing on the back of the return envelope a printed statement in substantially the following form:

TO BE COMPLETED
BY THE CLERK

Name of Voter

Street Address or R.R. or Program Participant
Identification Number

City or Township

County

Ward _____ Precinct _____

Date of Election

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TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a United States citizen and a registered elector of the city or township named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other individual.

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

DATE: _____

SIGN HERE X _____

Signature of Absent Voter

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

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

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TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
BY ANOTHER INDIVIDUAL

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in marking the absent voter's absent voter ballot pursuant to the absent voter's directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other individual.

Signature of Individual
Assisting Voter

Street Address
or R.R.

City or Township

Printed Name of Individual Assisting Voter

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

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WARNING

INDIVIDUALS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; AN INDIVIDUAL WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; AN INDIVIDUAL WHOSE JOB IT IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF THE INDIVIDUAL'S EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY OR TOWNSHIP. ANY OTHER INDIVIDUAL IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

(5) An absent voter who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a misdemeanor. An individual who assists an absent voter and who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a felony.

(6) If an elector applies for an absent voter ballot in person at a clerk's office before 4 p.m. on the day before election day, the city or township clerk shall not issue an absent voter ballot to that elector until the elector presents identification for election purposes. If an elector does not have identification for election purposes, the clerk shall inform the elector that the elector must sign an affidavit to that effect in front of the

clerk before an absent voter ballot will be issued in person to that elector. If an elector signs an affidavit under this subsection, the clerk shall issue an absent voter ballot to that elector. Except as otherwise provided in this subsection and subsection (7), a clerk shall not issue an absent voter ballot in person to any elector after 4 p.m. on the day before election day. An elector who is in line at 4 p.m. on the day before election day must be issued an absent voter ballot. This subsection also applies to an individual who submits an absent voter ballot application by means other than in person at a clerk's office, but who receives that individual's absent voter ballot in the clerk's office.

(7) An individual who registers to vote or who updates the individual's voter registration on election day in accordance with section 497 may apply for and complete an absent voter ballot in person at a clerk's office on election day. The individual shall receive the absent voter ballot, mark the absent voter ballot in a clerk's office, and return the absent voter ballot to the clerk in the absent voter ballot return envelope. An individual who is in line to register to vote or to update the individual's voter registration at 8 p.m. on election day must be permitted to register to vote or update the individual's voter registration, apply for an absent voter ballot, and vote the absent voter ballot after 8 p.m., including after 11:59 p.m. on election day if necessary. An individual who registers to vote on election day and who is in line to apply for an absent voter ballot at 8 p.m. on election day must be permitted to apply for an absent voter ballot and vote the absent voter ballot after 8 p.m., including after 11:59 p.m. on election day if necessary.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1965, Act 152, Imd. Eff. July 12, 1965;—Am. 1966, Act 264, Imd. Eff. July 12, 1966;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2012, Act 523, Eff. Mar. 28, 2013;—Am. 2018, Act 129, Imd. Eff. May 3, 2018;—Am. 2018, Act 603, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 177, Imd. Eff. Oct. 6, 2020;—Am. 2020, Act 302, Eff. June 27, 2021;—Am. 2023, Act 82, Eff. (sine die).

Compiler's note: Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

Popular name: Election Code