

# MICHIGAN VOTER PROTECTION LAWS IN A NUTSHELL

## JULY 2006



**Clearing The Path for Just Democracy**



Advancement Project  
1730 M Street, Suite 910  
Washington, DC 20036  
*phone:* 202.728.9557  
*fax:* 202.728.9558  
*www.advancementproject.org*  
*ap@advancementproject.org*



**DISCLAIMER**

This guide was prepared for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. Any decision to obtain legal advice or an attorney should not be based solely on information contained in this guide.

## TABLE OF CONTENTS

<b>INTRODUCTION &amp; ACKNOWLEDGMENTS</b>	<b>4</b>
<b>VOTER REGISTRATION</b>	<b>5</b>
Who may register to vote in Michigan?	5
When will the primary and general election be held?	5
What is the voter registration deadline for each election?	5
Where can a person apply for voter registration?	5
What information must be provided on a voter registration application?	6
How does a homeless person register to vote?	6
May a person register to vote by mail? If so, are there any special requirements for first-time voters who register to vote by mail?	6
Will mail-in voter registration applications be accepted if they are received by the registrar's office after the registration deadline?	7
May a person correct or complete a form after the deadline for voter registration if it was submitted before the deadline?	7
Are there any rules relative to assisting others with the completion of a voter registration application?	7
How many voter registration applications may individuals or groups conducting voter registration drives receive from the State Board of Elections or registrar offices?	7
Are there any special rules pertaining to the federal registration application?	8
May persons conducting voter registration drives make copies of completed voter registration applications before delivering them to the registrar's office?	8
Are persons conducting voter registration drives required to deliver or mail completed voter registration applications to registrar offices within a certain time limit?	8
When voter registration applications are mailed or delivered to election officials, how long will it take for the applications to be processed?	8
What are the time limits for state agencies to process voter registration applications?	8
What can a person do if his application is denied?	8
What is the procedure for determining whether an individual's registration application has been correctly processed and accepted?	8
What can a person do if her application is erroneously denied?	9
<b>IDENTIFICATION REQUIREMENTS</b>	<b>10</b>
What identification is required for voter registration?	10
What identification is required at the polling place?	11
What identification is required to obtain or file an absentee ballot?	11
What identification is required to validate a provisional ballot?	11
<b>VOTER REGISTRATION LIST MAINTENANCE</b>	<b>12</b>
For what reasons can a person's name be removed from a list of registered voters?	12
Under what circumstances will a person's name be placed on a list of inactive voters?	12
How does the voter get his name back on the active list?	12

What should the voter do if he changes his address?	12
What are the procedures for removing names of persons who have felony convictions from the registration rolls?	12
May a person whose name has been removed because of a felony conviction have his right to vote restored?	13
What are the procedures for removing names of persons who have been found to be mentally incompetent?	13
What may a voter do if she learns that her name has been removed from the registered voters' list in error?	13
Who may obtain a list of registered voters?	13
How often are names removed from voter registration lists?	13
Should voters be notified before their names are removed from voter registration lists?	14
What can a voter do if she does not appear on her precinct's voter registration list?	14
<b>ABSENTEE AND EARLY VOTING</b>	<b>16</b>
Who is permitted to vote by absentee ballot?	16
How may a person request an absentee ballot?	16
When is the deadline for requesting an absentee ballot?	17
May a first time voter cast an absentee ballot?	17
What steps must a voter take if she requests but does not receive an absentee ballot?	17
How must voters cast an absentee ballot to ensure it is counted?	17
When is the deadline for casting an absentee ballot to ensure it is counted?	18
Are there other requirements for casting an absentee ballot?	18
When will absentee ballots be counted?	18
What is the procedure for determining if an absentee ballot will be counted?	18
What should a person do if he requested an absentee ballot but wants to vote in person on election day?	18
Is there early voting? If so, describe.	18
What if a person is overseas and wants to register to vote by absentee ballot?	19
What if a person did not request an absentee ballot, but cannot reach her polling place on Election Day because of unforeseen emergency circumstances?	19
<b>POLLING PLACE LOCATIONS AND PROCEDURES</b>	<b>20</b>
What hours are the polls open on Election Day?	20
When is the final list of polling place locations made available to the public?	20
How are decisions about precincts and polling place locations made?	20
How and when will voters be notified about polling place changes?	20
What activities are restricted at polling places on Election Day?	20
What activities are permitted at polling places on Election Day?	20
Can voters request assistance with voting equipment at the polling place?	21
Can a child/minor enter the voting booth with the voter?	21
What accommodations must be made for non-English speaking persons or persons unable to read?	21
Will there be central polling locations where voters, regardless of where they live, can vote?	21
What accommodations must be made for a person unable to write?	21

What accommodations must be made for voters with disabilities?	21
How much time do voters have to cast their ballot?	22
If a voter is in line to vote at poll closing time but has not reached the voting machine, may the voter still vote?	22
May voters who have moved to a new address in another precinct but who have not registered at their new address be allowed to vote at the precinct for their old address?	22
Are poll watchers or other non-voters permitted inside the polling place?	22
<b>CHALLENGES AND VOTER INTIMIDATION</b>	<b>23</b>
Can a person's right to vote be challenged at the polls?	23
Who can challenge a person's right to vote at the polls?	23
What can a person do if she is challenged at the polls?	23
What steps are taken if a voter's name does not appear on the poll book?	23
What constitutes illegal intimidation of voters at the polls?	24
Are law enforcement officers allowed in a polling place during voting hours?	24
To whom should a person report acts of intimidation?	24
<b>PROVISIONAL BALLOTS</b>	<b>25</b>
What is a provisional ballot?	25
Who may request a provisional ballot?	25
Why and when will provisional ballots be provided to voters?	25
Who decides whether a voter gets a provisional ballot?	25
What can a voter do if she requests but does not receive a provisional ballot?	26
What information must be provided to voters who cast provisional ballots?	26
How do election officials determine whether a provisional ballot will be counted?	26
Does the voter who casts a provisional ballot have a right to present evidence or appear before the election officials evaluating whether it will count?	26
When will provisional ballots be counted?	27
How can voters find out whether their provisional ballots have been counted?	27
Does the voter have a right of appeal?	27
<b>ENDNOTES</b>	<b>28</b>

## INTRODUCTION

This publication is intended to distill complex election law for lawyers, advocates, voter registration campaigns, and “Get Out the Vote” campaigns. It combines state election law with state regulations, rules, attorney general opinions, and other election materials to provide a comprehensive interpretation of the law and practices that affect elections. While this publication does not cover every provision of state election law, it highlights those provisions which, in our experience, have most affected the voting rights of minority voters.

## ACKNOWLEDGMENTS

Advancement Project wishes to thank supporters of our Voter Protection Program, including the Arca Foundation, Bauman Foundation, Carnegie Corporation of New York, Ford Foundation, Jehl Foundation, Open Society Institute, Rockefeller Foundation, the Wallace Global Fund, and several individual donors, for making this publication possible.

Also, a special thanks to attorneys and Michigan Bar members, Mary Ellen Gurewitz, of Sachs Waldman, P. C., and Thomas H. Howlett of the Googasian Firm, and to Michigan State University College of Law student Debra Dobrasevic, for their contributions to this legal guide.

## VOTER REGISTRATION

### Who may register to vote in Michigan?

An individual may become a registered voter in Michigan if she is:

- At least 18 years of age.
- A citizen of the United States.
- A resident of the State of Michigan for at least 30 days.
- An established resident in the township, city, or village of registration no less than 30 days prior to the next election.<sup>1</sup>

Further, a person can register before meeting all of the above qualifications if she will meet them at the time of the next election or primary.<sup>2</sup>

A person is not eligible to register to vote in Michigan while she is confined in a jail after having been convicted and sentenced.<sup>3</sup> A person confined in a jail, prior to trial or sentence, may register by mail. However, a person who registers by mail must vote in person the first time he votes if he has not previously voted in Michigan.<sup>4</sup>

### When will the primary and general election be held?

- Primary Election: August 8, 2006
- General Election: November 7, 2006

### What is the voter registration deadline for each election?

- Primary Election: July 10, 2006
- General Election: October 10, 2006

An application is considered to have met the deadline if it is:

- Delivered in person to an appropriate office on or before the deadline.
- Received through the mail and is postmarked on or before the deadline.
- Received through the mail on or before the seventh day after the close of registration, if the postmark is missing or unclear, and the application is dated by the applicant on or before the registration deadline.<sup>5</sup>

### Where can a person apply for voter registration?

A person may register to vote by applying in person at any of the following locations:

- The office of the clerk of the county, township, or city in which the applicant resides.
- A Department of State office.
- Michigan Department of Social Services local offices, which provide services to recipients of public assistance (i.e., Temporary Aid to Needy Families, Medicaid, and food stamps).<sup>6</sup>
- County health department offices and other agencies that contract with the Department of

## MICHIGAN VOTER PROTECTION LAWS IN A NUTSHELL

- Public Health, which accepts applications for Women, Infant Children (WIC).
- Local Michigan rehabilitation services offices.
- Adult inpatient psychiatric hospitals operated by the Michigan Department of Mental Health.
- Michigan Department of Motor Vehicles offices.<sup>7</sup>
- Designated voter registration agencies, including military recruitment centers.<sup>8</sup>

A person may also register to vote by mail by obtaining a mail application at a township, city, or county clerk's office in the county where the voter lives from the Secretary of State or from a designated voter registration agency.<sup>9</sup> An application can be obtained on the Internet at the Secretary of State's website, <http://www.michigan.gov/sos>.

### **What information must be provided on a voter registration application?**

The following information must be obtained for each voter:<sup>10</sup>

- Name of the elector.
- Residence address of the elector.
- Birthplace and date of birth of the elector.
- Driver's license or state personal identification card number of the elector.
- Statement that the elector is a United States citizen.
- Statement that the elector is 18 years old at the time of completing the affidavit, or will be on the date of the next election.
- Statement that the elector has lived, or will have lived, in this state not less than 30 days before the next election.
- Statement that the elector has established, or will have established, his or her residence in the specific township, city, or village where he or she is applying for registration not less than 30 days before the next election.
- Statement that the elector is, or will be, a qualified elector of the township, city, or village on the date of the next election.
- Place of last registration, if necessary.
- Signature or digitized signature.

### **How does a homeless person register to vote?**

Michigan law does not specify exactly how a homeless person can vote. Michigan law defines residence as that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging.<sup>11</sup> A homeless person registering should use this definition to guide his statement regarding his residence.

### **May a person register to vote by mail? If so, are there any special requirements for first-time voters who register to vote by mail?**

Yes. If a person registers to vote by mail and has not previously voted in person in her current jurisdiction, she must appear in person for her first election.<sup>12</sup> This special voting rule does not apply to the following registered voters:

- A person entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.
- A person who has a disability as defined by Michigan law.
- A person who is 60 years of age or older.
- A person who, under federal law, is entitled to vote by a method other than in person.<sup>13</sup>

### **Will mail-in voter registration applications be accepted if they are received by the registrar's office after the registration deadline?**

Yes, if the application is postmarked before the deadline. In addition, if the application is received on or before the 7th day (one week) after the deadline, or the postmark is missing or unclear, but the application is dated by the mail-in voter applicant on or before the deadline, then the application is accepted.<sup>14</sup>

### **May a person correct or complete a form after the deadline for voter registration if it was submitted before the deadline?**

Yes, but only in the following situations: If a clerk has reason to believe that a registered voter moved his or her residence within the city or township, the clerk must send to the voter: notification that the clerk received information indicating that the voter moved residences, and; a prepaid and preaddressed return card for the voter to verify or correct address information specifying a return date of 30 days or more before the date of the next election, or the voter will have to vote in the former residence's precinct.<sup>15</sup>

A registered elector may, if the elector changes his address within the township, city, or village, send the clerk a signed request stating his previous address, new address, and date the elector moved. This transfer can also be requested in person.<sup>16</sup> If the move was after the sixtieth day before an election or primary election, the voter can vote in the election or primary election at the place of last registration.<sup>17</sup> If the voter was not registered by the close of election with the new address, the elector can register and vote after the close of the election if the elector applies for registration in person; completes the registration affidavit before the clerk or the clerk's agent in the clerk's township or city; provides proof of identification; and the township or city clerk determines that the elector is presently registered in another township or city of the same county.<sup>18</sup>

### **Are there any rules relative to assisting others with the completion of a voter registration application?**

If someone cannot apply for registration in person because they are not in the town or city, or because of a physical disability, he or she can obtain duplicate registration cards and fill out the information before a notary public or other officer who is authorized to administer oaths.<sup>19</sup>

### **How many voter registration applications may individuals or groups conducting voter registration drives receive from the State Board of Elections or registrar offices?**

No limit is specified in the law.

### Are there any special rules pertaining to the federal registration application?

Michigan provides no special rules pertaining to the federal registration application.

### May persons conducting voter registration drives make copies of completed voter registration applications before delivering them to the registrar's office?

Persons who conduct voter registration drives may copy the completed applications before they are delivered to the appropriate office. The originals must be turned in to the election registration authorities. The copies may be kept for purposes of GOTV (get out the vote) activity or in order to insure that the registrations are processed. It would be a good idea to note on the copy when and where the original was given to the registration authority.

### Are persons conducting voter registration drives required to deliver or mail completed voter registration applications to registrar offices within a certain time limit?

No.<sup>20</sup>

### When voter registration applications are mailed or delivered to election officials, how long will it take for the applications to be processed?

If the applications were mailed or delivered to a Department of State office, designated voter registration agency, or county clerk's office within seven (7) days before the registration deadline, the application will be sent to the clerk of the city where the elector lives within one (1) business day.<sup>21</sup>

### What are the time limits for state agencies to process voter registration applications?

A voter registration application received by a Department of State office, designated voter registration agency, or county clerk's office must be processed and forwarded to the appropriate election official within seven (7) days after receipt of the application.<sup>22</sup> If the application is received less than seven (7) days before the close of registration for elections, the official receiving the application must process and forward it no later than one (1) business day after receipt.<sup>23</sup> If the application is received while registration is closed for elections, the applicant will be ineligible to vote and the application need not be processed until the day after the election.<sup>24</sup>

### What can a person do if his application is denied?

If the deadline for registering for an upcoming election has passed, the person can appeal to the registration authority. If the deadline has not passed, he or she should simply file a new registration application.

### What is the procedure for determining whether an individual's registration application has been correctly processed and accepted?

The National Voter Registration Act of 1993 (NVRA)<sup>25</sup> requires state election officials to provide to each person who submits a completed voter registration notice of whether his or her application was accepted or denied.<sup>26</sup> If the registration application is accepted, the applicant will receive a voter identification card in the mail.<sup>27</sup> If the application is denied, the elections official must immediately notify the applicant that the application has been denied and the reason for the denial.<sup>28</sup>

### What can a person do if her application is erroneously denied?

If the deadline for registering for an upcoming election has passed, the person can appeal to the registration authority. If the deadline has not passed, she should simply file a new registration application.

### IDENTIFICATION REQUIREMENTS

#### What identification is required for voter registration?

The Help America Vote Act of 2002 (HAVA) requires states to obtain identification (ID) numbers for individuals who register to vote after January 1, 2003. HAVA requires state voter registration applications to include a current and valid driver's license number or the last four digits of the applicant's social security number. If the applicant has neither a driver's license nor a social security number, then the state must assign the applicant an identification number for voter registration purposes.<sup>29</sup>

Michigan law also requires that the applicant provide the following information:

- Name
- Residence address (including street and number, rural route, post office box number, and apartment number, if any)
- Birthplace and date of birth
- A statement that all of the following are true:
  - The applicant is a United States citizen.
  - The applicant is at least 18 years of age, or will be on the date of the next election.
  - The applicant has or will have lived in Michigan for at least 30 days before the next election.
  - The applicant has established, or will have established, her residence in the township or city in which she is applying for registration for at least 30 days prior to the next election.
  - The applicant will be a qualified voter at the date of the next election.<sup>30</sup>

The applicant will also be asked to provide the place of last registration, if any.<sup>31</sup>

In addition, HAVA provides that persons who registered to vote for the “first time” in a state or county, and who submit a voter application by mail, must either send a copy of proof of identification with her mail-in application or present her ID at the polls on the day of an election.<sup>32</sup> The type of proof may include a copy of current and valid photo ID (driver's license, operator's license, or personal ID), a current utility bill, bank statement, or government documentation that shows the applicant's current address.<sup>33</sup>

However, the following “first time” voters who register by mail are exempt from their proof of identification requirement:

- A voter who hand delivers her mail registration to the county or local clerk's office.
- A voter with a disability.
- A voter who is eligible to vote under the Uniform and Overseas Citizens Absentee Voting Act.<sup>34</sup>

### What identification is required at the polling place?

An amendment to the Michigan law, requiring all voters to present picture ID at the polls before they will be given a ballot,<sup>35</sup> was held unconstitutional by a former attorney general. The statute has been reenacted but will not be effective until after the November 2006 election. The Michigan Supreme Court has agreed to consider its constitutionality, and may reverse the attorney general's opinion.<sup>36</sup> However, the chances are very remote that picture ID will be required at any polling place in the 2006 election.

At the present time, a voter must sign an application to vote, which contains his printed name, signature, address and date of birth, but does not have to provide any ID.<sup>37</sup>

### What identification is required to obtain or file an absentee ballot?

Michigan does not require voters to present ID in order to obtain or file absentee ballots. Current Michigan election law requires the voter's signature to validate the ballot.<sup>38</sup>

### What identification is required to validate a provisional ballot?

A **provisional ballot** will be tabulated if a valid voter registration record for the elector is located or if the voter establishes their identity and residence by providing a Michigan operator's license, chauffeur's license, personal ID card, other government issued photo ID card, or a photo ID card issued by a Michigan institution of higher education along with a document to establish the voter's current residence address.<sup>39</sup>

### VOTER REGISTRATION LIST MAINTENANCE

#### For what reasons can a person's name be removed from a list of registered voters?

Michigan law permits clerks to remove names from the voter registration list for the following reasons: 1) at the voter's request;<sup>40</sup> 2) upon the death of the voter;<sup>41</sup> 3) after receiving notice that the voter has moved from the city or township and has completed an application at the new address;<sup>42</sup> 4) if the clerk has sent a notice to the voter of receipt of information indicating that the voter has changed addresses, the notice is returned as undeliverable, and the voter fails to vote in the two general November elections following the date of such notice, or;<sup>43</sup> 5) if the clerk is unable to make an independent determination that the challenged voter is qualified to vote.<sup>44</sup>

Additionally, if an individual's qualifications to register to vote have been challenged for any reason, Michigan law permits the clerk to remove the individual's name from the registration list if the challenged voter fails to respond or prove her response, or is otherwise permitted to vote only at the upcoming election.<sup>45</sup>

#### Under what circumstances will a person's name be placed on a list of inactive voters?

Michigan no longer maintains a list of inactive voters. Sections 168.502a and 168.509 pertaining to the maintenance of an inactive voter list have been repealed.<sup>46</sup> § 168.502a and § 168.509 were enacted in 1954. If a voter is registered and her name is not removed from the list for any reason, then he or she can vote regardless of whether he or she would have been on the inactive list previously.<sup>47</sup> Michigan, however, is currently trying to restore the list of inactive voters.

#### How does the voter get his name back on the active list?

Not applicable. See above.

#### What should the voter do if he changes his address?

If a person changes addresses to another address within the same township, city, or village, the person may update their address by completing a change of address form at the polling place, if applicable.<sup>48</sup> If a person changes addresses to an address in a different township, city, or village, the person should apply to register to vote in the new precinct.<sup>49</sup>

#### What are the procedures for removing names of persons who have felony convictions from the registration rolls?

The voter's name is not actually removed from the voter registration list, however, a person who is serving time for a crime may not vote while incarcerated.<sup>50</sup> Michigan election law provides that a person who is convicted and sentenced in the United States for a crime, and the penalty imposed includes jail or prison, "shall not vote, offer to vote, attempt to vote, or be permitted to vote at an election while confined."<sup>51</sup> Michigan does not automatically remove the names of persons who have felony convictions from the voter registration list. However, if a person is confined for a prolonged period of time, his or her name may be removed through the procedures described below.

If someone is a registered voter before incarceration, she is restored as a registered voter once she has been released from prison or jail.<sup>52</sup>

### **May a person whose name has been removed because of a felony conviction have his right to vote restored?**

A person who has been convicted of a felony has the right to vote once she has been released from prison or jail.

### **What are the procedures for removing names of persons who have been found to be mentally incompetent?**

Michigan does not remove from the rolls names of persons who are found to be mentally incompetent.<sup>53</sup>

### **What may a voter do if she learns that her name has been removed from the registered voters' list in error?**

There is no formal procedure in the law, but voters are encouraged to first contact their village or township clerk, and if they need further assistance, contact the Michigan Bureau of Elections.<sup>54</sup> If a voter's name is removed because it is believed it was illegally or fraudulently entered in the registration records, the voter may seek reinstatement by court order.<sup>55</sup>

### **Who may obtain a list of registered voters?**

Michigan law provides that the registration record is open for public inspection.<sup>56</sup> Whether or not copies can be made of the registration records is within the discretion of the election official.<sup>57</sup> However, a person may obtain, through the clerk of a city, township, or village who maintains a computerized file of registered voters and who does not have direct access to the qualified voter files, a certified computer tape, disk, or listing of the names and addresses of the registered voters in the city, township, village, school district, ward or precinct.<sup>58</sup> The produced computerized file of registered voters will not contain: 1) the voter's year of birth; (2) information on whether an voter declined to register to vote; (3) the name and location of the office that received the voter's voter registration application; 4) the voter's driver license or state personal ID card number, and; 5) the voter's telephone number.<sup>59</sup>

Under Michigan's Freedom of Information Act, a person may inspect, copy, or receive copies of public records.<sup>60</sup> In Michigan, voter lists held by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state are considered a public record.<sup>61</sup>

### **How often are names removed from voter registration lists?**

Clerks must conduct uniform programs to remove names of registered voters who are no longer qualified to vote in the city or township.<sup>62</sup> With the exception of removal from the voter registration list by request, death, or new registration of voter, a registration list maintenance program to remove names must be completed 90 days before a federal election.<sup>63</sup> Programs to remove names from the list can be conducted through house-to-house canvasses, general mailings requesting address verification, participation in the U.S. Postal Service's national change of address program, or other

means deemed appropriate by the clerk.<sup>64</sup> Removal programs must be completed at least 90 days before the next election.<sup>65</sup>

### **Should voters be notified before their names are removed from voter registration lists?**

Yes. Federal law requires certain steps to be followed before the name of a registered voter can be removed from the list.<sup>66</sup>

Upon learning that a voter has moved outside the city or township, a clerk must send notice of potential cancellation.<sup>67</sup>

If a clerk learns that a registered voter has moved to a new city or township, the clerk must send to the voter, by forwarded mail, the following:

- A notice that the clerk has received information indicating that the voter has moved his or her residence to another city or township.
- A postage prepaid and preaddressed return card on which the voter may verify or correct the address information.
- A notice containing information on how the voter can become registered to vote at the next election in her new city or township.<sup>68</sup>

If the address information is incorrect and the voter has not moved to another city or township, the voter should complete and return the card to the clerk at least 30 days before the next election. If the card is not completed and returned before the deadline, the voter may be required to confirm her current address before being allowed to vote. If the voter does not vote in an election between the date of the notice and the second general November election after that date, the voter's registration will be canceled and her name will be removed from the registration list;

### **What can a voter do if she does not appear on her precinct's voter registration list?**

If a voter goes to her proper polling location but does not appear on the voter registration list, she can still vote by regular ballot if she has a receipt of her registration and completes a new voter registration application.<sup>69</sup> Also, if a voter does not appear on the precinct's voter registration list, but the election clerk determines where the correct polling location and the voter is willing to travel to that location, then the voter will be permitted to vote in the correct location using a regular ballot. If the voter refuses to travel to the correct polling location, she will be permitted to vote using a provisional ballot.<sup>70</sup> However, this provisional ballot will not be counted because it was cast at the incorrect polling location.<sup>71</sup>

If a voter does not appear on her precinct's voter registration list and does not have her voter registration receipt, the election clerk will follow a "four-step" procedure before issuing the voter a ballot. This four-step procedure will instruct the election clerk on how the ballot should be handled after it is cast. The ballot may be deposited as any other ballot or may be placed in a special provisional ballot security envelope (an "envelope" ballot) that is returned to the clerk's office for additional review.

The “four-step” process is as follows:

1. The voter completes an affidavit.
2. The voter completes a new voter registration form.
3. The election inspector confirms with the clerk that the voter is not registered and checks the voter’s identity and address.
4. The election inspector determines, based on the responses to the questions, whether the voter will receive a regular ballot or an “envelope” ballot.<sup>72</sup> [See Appendix 1, Michigan Department of State’s Procedures for Issuing a Ballot If a Voter’s Name Does Not Appear on Registration List]

### ABSENTEE AND EARLY VOTING

#### Who is permitted to vote by absentee ballot?

To vote by absentee ballot, an individual must qualify as an “absent voter.” To qualify as an absent voter, an individual must be a registered voter that is one or all of the following:

- Unable to attend the polls without the assistance of another person, due to a physical disability.
- Unable to attend the polls on the day of the election, due to religious beliefs. .
- An election inspector in a precinct other than her own.
- 60 years of age or older.
- Absent from, or expecting to be absent from, the township or city in which she resides for the entire period in which polls are open
- Confined in jail awaiting arraignment or trial.<sup>73</sup>

A citizen of the United States over the age of 18 may vote by absentee ballot only for president and vice-president of the United States if either of the following apply:

- She has moved to Michigan from elsewhere in the United States, can prove she was qualified to vote in the prior residence but is no longer so qualified, and will have resided in Michigan for less than six (6) months and in a city or township of this state for at least 30 days before the presidential election.
- She has moved from Michigan to elsewhere in the United States, was a qualified and registered voter in a city or township of Michigan at the time she moved, and can prove that she cannot yet qualify to vote in her new residence.<sup>74</sup>

#### How may a person request an absentee ballot?

A qualified registered voter can apply for an absentee ballot in person or by mail.<sup>75</sup> Applications must be made to the clerk of the city or township in which the voter is registered. The application can be made by:

- Submitting a written request signed by the voter and stating why the voter qualifies to vote by absentee ballot.
- Submitting a request on a form provided by any organization which is doing GOTV (Get Out the Vote) work, such as a union, a political party, or another entity.
- Completing a federal postcard application.
- Completing an absentee ballot application form provided by the city or township clerk.<sup>76</sup>

The application must be signed by the applicant.<sup>77</sup> The application can be mailed or delivered by the applicant personally, or by a member of the applicant’s immediate family.<sup>78</sup> If for some reason neither of these methods of delivery is available, an applicant can request any registered voter to deliver the completed application.<sup>79</sup> The voter authorized to deliver the application must sign the certificate found on the absentee ballot, upon delivery of the application.<sup>80</sup>

### **When is the deadline for requesting an absentee ballot?**

Generally, a voter can apply for an absentee ballot in the 75 days leading up to an election, but no later than 2:00 p.m. on the Saturday before the election.<sup>81</sup> For the 2006 general election, absentee ballot requests must be made by 2:00 p.m. on November 4, 2006.<sup>82</sup> However, a voter can vote in person at the clerk's office until 4:00 p.m. on the day before the election, as long as that day is not a Sunday or a legal holiday.<sup>83</sup>

Immediately upon receipt of the application, the clerk is supposed to mail or deliver an absentee ballot to the applicant's address of registration, unless the applicant requested delivery to a different address.<sup>84</sup> Ballots can also be given to the applicant in person at the clerk's office.<sup>85</sup>

### **May a first time voter cast an absentee ballot?**

An individual who registered to vote by mail and who has not previously voted in person in her current jurisdiction, must vote in person, and cannot vote by absentee ballot, if she has not previously voted in person in Michigan.<sup>86</sup> This rule does not apply to the following persons:

- Persons entitled to vote by absentee ballot because of the Uniformed and Overseas Citizens Absentee Voting Act.<sup>87</sup>
- Persons with a disability as defined in Michigan law.
- Persons over the age of 60.<sup>88</sup>

### **What steps must a voter take if she requests but does not receive an absentee ballot?**

An absentee voter who applied for an absentee ballot and did not receive it, or lost or destroyed an absentee ballot he or she received, and who desires to vote in person in his or her precinct on election day, must sign an affidavit stating the situation before an election inspector.<sup>89</sup> The voter then must be allowed to vote as otherwise provided in Michigan Election law.

### **How must voters cast an absentee ballot to ensure it is counted?**

To ensure that absentee ballots will be counted, the voter must return the completed ballot in the return envelope provided to the clerk or an authorized assistant of the clerk no later than 8:00 p.m. on Election Day.<sup>90</sup> The voter must sign and date the return envelope in the place designated unless she is unable to do so due to a disability or is otherwise unable to mark her ballot.<sup>91</sup> In that case, the person assisting should complete the envelope specified for persons providing assistance to voters.<sup>92</sup>

A voter can mail the completed ballot or hand deliver it to the office of the clerk, the clerk, or the clerk's assistant.<sup>93</sup> Further, a member of the voter's immediate household, including any persons residing in the household, may mail or deliver the ballot for the voter.<sup>94</sup>

If a voter needs assistance delivering her completed absentee ballot, she can call the clerk who issued the ballot.<sup>95</sup> A clerk must assist the voter in returning her absentee ballot if all of the following requirements are met:

## MICHIGAN VOTER PROTECTION LAWS IN A NUTSHELL

- The clerk's office issued the absentee ballot to the voter.
- The voter requested assistance before 5:00 p.m. on the Friday before the election.
- The voter or the voter's immediate family is unable to deliver the ballot personally or by mail.
- The voter asks the clerk to pick up the ballot within the city or township of registration.<sup>96</sup>

The clerk who issued the absentee ballot may assist the voter where assistance is requested after 5:00 p.m. on the Friday before the election, as long as the absentee ballot was issued by the clerk's office and the absentee voter states that she is unable to return the absentee ballot.<sup>97</sup>

### **When is the deadline for casting an absentee ballot to ensure it is counted?**

The ballot must be received by the clerk or an authorized assistant of the clerk before the close of the polls on Election Day.<sup>98</sup>

### **Are there other requirements for casting an absentee ballot?**

No.

### **When will absentee ballots be counted?**

The Board of Inspectors of Election will begin counting all ballots (including absentee ballots) as soon as elections close.<sup>99</sup>

### **What is the procedure for determining if an absentee ballot will be counted?**

Upon receipt of voted absentee ballots, the board of elections inspectors determines whether the vote is legal by examining the registration record to ensure that the voter has not voted in person, that she is a registered voter, and that the signature on the absentee voter application matches the signature on the registration record.<sup>100</sup> If the ballot is determined to be illegal, the board of election inspectors will mark it as rejected and return it, unopened, to the appropriate clerk's office for retention.<sup>101</sup> If the ballot is determined to be legal, the envelope is opened and the ballot is placed in the appropriate ballot box without being unfolded.<sup>102</sup>

### **What should a person do if he requested an absentee ballot but wants to vote in person on election day?**

A voter who has received an absentee ballot, but wants to vote in person, must return the absentee ballot to the board of election inspectors in her precinct.<sup>103</sup> A voter cannot vote in person if she voted the absentee ballot.<sup>104</sup> If the voter did not receive a requested absentee ballot, or lost or destroyed an absentee ballot she received, the voter may vote in person if she signs an affidavit indicating that the absentee ballot was not received or was lost or destroyed.<sup>105</sup> A voter who votes in this manner is subject to challenge.<sup>106</sup>

### **Is there early voting? If so, describe.**

Yes. A person who is eligible to vote absentee may vote "in person" beginning 13 days before the election through 4:00 p.m. on the day before an election.<sup>107</sup> The voting equipment for "in-person" absentee voting should be located in the city or township hall or at the office of the city or township clerk, if that is not at the city or township hall.<sup>108</sup>

### **What if a person is overseas and wants to register to vote by absentee ballot?**

Michigan law has an exception for a limited group of persons who can register to vote and request an absentee ballot at the same time.<sup>109</sup> This exception is limited to:

- Civilian employees of the armed services outside of the United States.
- Members of the armed services outside of the United States.
- United States citizens temporarily residing outside the territorial limits of the United States.
- United States citizens residing in the District of Columbia.
- Spouses and dependents accompanying any of the above listed individuals.<sup>110</sup>

“Armed services” means any of the following:

- The United States Army, Navy, Air Force, Marine Corps, or Coast Guard.
- The United States Merchant Marines.
- A reserve component of an armed service listed above.
- The Michigan National Guard.<sup>111</sup>

The above persons will receive both an absentee ballot and a registration application. She should complete both and return them before Election Day. Absentee ballots and registration applications must be received before the polls close on Election Day in order to be counted.<sup>112</sup>

### **What if a person did not request an absentee ballot, but cannot reach her polling place on Election Day because of unforeseen emergency circumstances?**

A registered voter may apply to her city or township clerk for an emergency absentee ballot at any time before 4:00 p.m. on Election Day if she becomes physically disabled, or will be absent due to a sickness or death in the family, and the sickness or death occurred at a time making it impossible to apply for an absentee ballot before the deadline.<sup>113</sup>

Voters can apply for an emergency absentee ballot by letter or by filling out a form provided by the clerk.<sup>114</sup> The clerk may deliver the absentee ballot to the applicant in person, at the office, or to an individual designated by the applicant.<sup>115</sup> If the clerk does not deliver the absentee ballot herself, she can do so through a deputy or an election assistant. The voter may return the completed ballot to the clerk in any manner she sees fit provided the ballot has been sealed in the supplied envelope and returned by 8:00 p.m. on Election Day.<sup>116</sup>

### POLLING PLACE LOCATIONS AND PROCEDURES

#### **What hours are the polls open on Election Day?**

Polls must be continuously open from 7:00 a.m. until 8:00 p.m.<sup>117</sup>

#### **When is the final list of polling place locations made available to the public?**

The legislative body that designates the polling places locations for primary and general elections must finalize their decision no less than 60 days before the election and may not establish, move, or abolish a polling place unless the location is destroyed, rendered inaccessible, or unusable.<sup>118</sup>

#### **How are decisions about precincts and polling place locations made?**

The legislative body in each city, village, and township will designate polling place locations. Polling places may be located in publicly-owned or controlled buildings, buildings owned or controlled by an organization that is exempt from federal income tax, or for-profit and nonprofit residencies or facilities where 150 persons or more reside. However, a polling place may not be located in a building that is owned by a person who sponsors a political committee or independent committee. All polling places must be accessible to both the elderly and the disabled.<sup>119</sup>

#### **How and when will voters be notified about polling place changes?**

Michigan law requires that voters be notified via first-class mail and be sent a corrected voter ID card when the polling location changes due to a change in United States representative, state senatorial, state representative, or county commissioner district or precinct.<sup>120</sup>

If election precincts are altered or rearranged, or a city, ward, township or village is subdivided into election precincts, affected voters will be notified by first class letter informing the voters of the new location. If considered necessary by the city, township, or village election commission, a public notice of the change will be posted in two (2) places in each precinct affected by the changes.<sup>121</sup>

#### **What activities are restricted at polling places on Election Day?**

The following actions are prohibited within 100 feet of the entrance of the building in which a polling place is located:

- Attempting to persuade a person to vote for or against a candidate, party, or ballot question.
- Distributing unauthorized stickers.
- Soliciting donations, gifts, contributions, purchase of tickets, or other similar demands.
- Requesting signatures on petitions.
- Posting, displaying, or distributing any material that directly or indirectly refers to a candidate, party, or ballot question.<sup>122</sup>

#### **What activities are permitted at polling places on Election Day?**

Challengers are allowed within the polling place to observe the election procedure and observe each person applying to vote.<sup>123</sup> Challengers are also permitted to challenge the counting of the votes.<sup>124</sup> Challengers must be registered electors of the state.<sup>125</sup> A challenger shall not challenge indiscriminately and without good cause. A challenger cannot handle the poll books while observing

election procedures or the ballots during the counting of the ballots. A challenger cannot interfere with, or unduly delay, the work of the election inspectors. A person challenging a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor offense.<sup>126</sup>

### **Can voters request assistance with voting equipment at the polling place?**

If a voter says by oath that because of physical disability, he cannot operate the voting machine, the machine can be set and operated for him by two inspectors designated to assist.<sup>127</sup>

### **Can a child/minor enter the voting booth with the voter?**

A minor child can accompany a voter into the voting booth.<sup>128</sup>

### **What accommodations must be made for non-English speaking persons or persons unable to read?**

If the voter cannot mark his or her ballot, the voter can be assisted by two inspectors of election.<sup>129</sup> If the voter is blind, she may be assisted by a member of her immediate family or by someone else, age 18 or older, designated by the voter. Language assistance is not mandated by state law, but is required in three particular jurisdictions.<sup>130</sup>

### **Will there be central polling locations where voters, regardless of where they live, can vote?**

Michigan election law provides that the legislative body in each city, village, and township, when possible and convenient for the voters, may establish a centralized polling place or several centralized polling places for no more than six (6) combined voting precincts. The legislative body may likewise abolish other polling place locations that become unnecessary when the centralized polling place is established.<sup>131</sup>

### **What accommodations must be made for a person unable to write?**

If a person is unable to write, she may make a mark on the voter registration affidavit and her date of birth, and any additional identifying information, will be noted.<sup>132</sup>

### **What accommodations must be made for voters with disabilities?**

All polling places in Michigan are required to be accessible and usable by the elderly and persons with disabilities.<sup>133</sup> The township or city must remove or modify any policies, practices, or procedures that deny an individual with a disability the opportunity to vote, including the removal of physical barriers from both inside and outside polling places.<sup>134</sup> For example, doors should not be blocked, alternatives to stairs such as ramps or elevators should be available, and lighting and seating should be adequate. At least one voting station in each polling place should be adapted to allow a person to vote while seated.

If a person with a disability requires assistance with voting, she may request the assistance of two election officials.<sup>135</sup> If the voter is blind, she may be assisted in marking her ballot by a member of her immediate family or by a person over 18 years of age designated by the blind person.<sup>136</sup>

## MICHIGAN VOTER PROTECTION LAWS IN A NUTSHELL

Voters requiring special assistance should call the clerk's office ahead of time to ensure the polling place is free of obstructions. If a precinct is inaccessible, the clerk will direct voters to an alternative site. Hearing impaired residents with questions may contact the Department of State's Bureau of Elections by TTY at (517) 322-1477.<sup>137</sup>

### **How much time do voters have to cast their ballot?**

The board of election inspectors is allowed to set reasonable limitations on the time a voter may take to cast a ballot.<sup>138</sup> Such a limitation would be unusual and would be imposed if a particular voter were significantly delaying the process.

### **If a voter is in line to vote at poll closing time but has not reached the voting machine, may the voter still vote?**

All qualified voters in line before 8:00 p.m. will be allowed to vote.<sup>139</sup>

### **May voters who have moved to a new address in another precinct but who have not registered at their new address be allowed to vote at the precinct for their old address?**

A registered and qualified voter who moved to a new township or city in Michigan less than 60 days before an election may vote in that election at her old precinct after signing an affidavit stating that she has moved.<sup>140</sup>

A person must vote at her old precinct if she has moved to a new address within the same township or city and has not updated her address with the clerk.<sup>141</sup> The person is required to update her address and sign a transfer of registration request.<sup>142</sup>

### **Are poll watchers or other non-voters permitted inside the polling place?**

The board of election inspectors shall provide space for challengers and poll watchers within the polling place that lets them observe the election procedure and each person applying to vote.<sup>143</sup>

## CHALLENGES AND VOTER INTIMIDATION

### Can a person's right to vote be challenged at the polls?

Yes. An election inspector, challenger, or another voter may challenge a person's right to vote at the polls.<sup>144</sup> An election inspector must challenge an individual if the inspector knows, or has reason to suspect, that the individual is not a qualified and registered voter of the precinct, or if the registration list notes a challenge beside the voter's name.<sup>145</sup> Also, if the inspector finds that a signature or other information provided in the application to vote does not correspond with information on a registration list, the vote can be challenged.<sup>146</sup> Another voter may challenge an individual if the voter knows, or has good reason to think, that the individual is not a registered voter in the precinct.<sup>147</sup> Further, an election inspector, a qualified challenger, or another voter may challenge the right of an individual who previously applied for an absentee ballot and who on Election Day claims to have lost, destroyed, or misplaced the absentee ballot.<sup>148</sup>

If this occurs, an election inspector must make a written report identifying the challenger, the challenged individual, the time of the challenge, and the reason for the challenge<sup>149</sup>

To resolve the challenge, the voter must be sworn by one (1) inspector to truthfully answer questions concerning her qualifications to vote.<sup>150</sup> Any inspector or qualified voter present at the poll may question the challenged voter as to her qualifications.<sup>151</sup> If the answers show that she is qualified as a voter, she must be permitted to vote.<sup>152</sup>

### Who can challenge a person's right to vote at the polls?

An election inspector, challenger, or another voter can challenge.<sup>153</sup> Each political party has the right to have up to two challengers in a precinct. In addition, an incorporated organization or organized committee of interested citizens may file with the appropriate authority a statement setting forth the reason why they want to have challengers.<sup>154</sup> A challenger must have credentials from the appointing organization.<sup>155</sup> Only one challenger of the two who may be in the polls may challenge a voter.<sup>156</sup>

### What can a person do if she is challenged at the polls?

If a person is challenged, if there are other unchallenged voters waiting in line, he or she should step aside and let the unchallenged voters vote.<sup>157</sup> Then, the person must truthfully answer all questions asked concerning his qualifications as an elector and any inspector or qualified elector at the poll can question the person. If the person's answers show that he or she is a qualified elector in that precinct, he will receive a ballot and vote. If not, he will not receive a ballot.<sup>158</sup>

### What steps are taken if a voter's name does not appear on the poll book?

If a voter's name does not appear on the voter registration list and the voter can show receipt of a voter registration application, the voter is issued a ballot. If the election inspector determines that the voter is at the wrong polling place based on residence and the voter refuses to travel to the other polling place, the voter receives a provisional ballot. The voter also must sign a sworn statement, noting approximately when and where the voter completed and sent in the voter registration form. If the election inspector determines no information to the contrary, then the voter is provided with a provisional ballot.<sup>159</sup>

### What constitutes illegal intimidation of voters at the polls?

In Michigan, an election inspector or any other person in the polling room, compartment connected to the polling room, or within 100 feet from the door of a building where a polling place is located is prohibited from persuading or trying to persuade an elector to vote for or against any particular candidate, party ticket, or ballot question that is being voted on at that election.<sup>160</sup>

It is a misdemeanor offense for any individual to challenge a qualified and registered elector for the purpose of annoying or delaying the elector at the polls.<sup>161</sup>

Challengers who are provided space in the polling place to observe election procedures and persons applying to vote may not threaten or intimidate an elector while the elector is entering the polling place, applying to vote, entering the voting compartment, voting, or leaving the polling place. In turn, no person shall threaten or intimidate a challenger who is monitoring the election process.<sup>162</sup>

Michigan law prohibits any person from directly or indirectly attempting to influence another person's vote through bribery, threat, or corruption.<sup>163</sup> A person is also prohibited from offering to any person an inducement to influence the manner of voting or a reward for not voting. Likewise, a person is prohibited from, before or after the election, receiving, agreeing, or contracting valuable consideration, for: 1) voting or agreeing to vote; 2) inducing or attempting to induce another person to vote or not vote, and; (3) refraining or agreeing to refrain from voting.<sup>164</sup>

In addition, it is also illegal in Michigan for an employer to directly or indirectly discharge, or threaten to discharge, an employee for the purpose of influencing the employee's vote.<sup>165</sup> It is also illegal for a priest, pastor, curate, or other officer of a religious society to try to influence a voter by imposing, or threatening to impose upon, a voter a penalty of excommunication, dismissal, or expulsion, or command or advise the voter, under pain of religious disapproval.<sup>166</sup>

### Are law enforcement officers allowed in a polling place during voting hours?

Michigan's election law does not prohibit law enforcement officers from being in a polling place during voting hours. In fact, Michigan election law provides that a police officer may provide protection to the voting machines when the city, village or township clerk in charge believes injury to the machines is possible.<sup>167</sup>

### To whom should a person report acts of intimidation?

Acts of voter intimidation should be reported first to the elections inspectors of the precinct, then to the local police and also to the local city, township, or village clerk. Persons can also contact the Michigan Secretary of State office at (800) 292-5973.

## PROVISIONAL BALLOTS

### What is a provisional ballot?

Under Michigan law, a provisional ballot is defined as a special ballot used for individuals who are not listed on the voter registration list at their polling place. It can be counted only after the voter's eligibility to vote is verified and only if it is determined that the person voted in the correct precinct.<sup>168</sup>

### Who may request a provisional ballot?

As mentioned above, if a voter does not appear on the voter registration list and it is discovered that the voter is at the wrong polling place location, he or she can request a provisional ballot. However, the voter should be expressly told that if it is determined that he is registered in another precinct this ballot will not be counted.<sup>169</sup> The election inspector determines whether the individual is in the appropriate polling place based on residence information provided by the individual and reviews documents or maps in the polling place to verify the appropriate polling place for the individual. The election inspector then directs the person to the appropriate polling place.<sup>170</sup>

### Why and when will provisional ballots be provided to voters?

Under Michigan law, a provisional ballot will be given to:

- A registered voter that claims to have registered before the close of registration and whose name does not appear on the voter registration list. If a voter has a registration receipt, he can vote a non-provisional ballot after filling out a new voter registration application.<sup>171</sup>
- A registered voter at the wrong polling place who refuses to go to the correct polling location.<sup>172</sup>
- A registered voter who is not on the precinct voting list but whose elector information can be verified by the city or township clerk, and who presents a Michigan operator's license, chauffeur's license, or Department of State personal ID card that does not have the voter's current address, but can provide a current utility bill, bank statement, paycheck, government check or government document with new address in the precinct.<sup>173</sup>
- A registered voter in the wrong precinct who does not present a Michigan operator or chauffeur's license, Department of State issued personal ID card, other government photo ID or is unable to present any identification.<sup>174</sup>

The voter must sign a sworn statement that she registered to vote before the close of elections and is eligible to vote.<sup>175</sup> The voter must also complete a new registration application.

### Who decides whether a voter gets a provisional ballot?

The election inspector decides whether or not to issue a ballot upon verification from the city or town clerk that the individual is listed in the registration records of the jurisdiction. If the election inspector cannot contact the clerk, and the voter's name cannot be found on the precinct poll book, the election inspector can still provide the voter with a provisional ballot subject to verification after the election.<sup>176</sup>

### **What can a voter do if she requests but does not receive a provisional ballot?**

A voter who asks for a provisional ballot and is refused can call the Michigan Bureau of Elections at (517) 373 -2540 and report it. However, there is no formal appeal process in the law.

### **What information must be provided to voters who cast provisional ballots?**

Michigan law requires that board of election inspectors in each voting precinct post, in “conspicuous places” within the polling place, two (2) voter information displays that contain information on an individual’s right to obtain a provisional ballot and instructions on how to vote by provisional ballot.<sup>177</sup>

When an individual casts a provisional ballot and the city or township clerk verifies the voter’s information and finds no information contrary to the information in the individual’s affidavit, and the individual establishes her identity and current address by providing a Michigan operator or chauffeur’s license, a department of state issued personal ID card, other government issued photo ID card, or a photo ID card issued by a state college or university, the election inspector will provide the voter with a notice that her ballot has been counted.<sup>178</sup>

If the election inspector is not able to verify the individual’s eligibility by contacting the city or township clerk, the individual is not in the correct voting precinct, does not present the proper form of identification that reflects her current address, or does not present any identification at all, the election inspector will provide the individual with a notice that a clerk of the jurisdiction will, within six (6) days of the election, verify the individual’s information and determine whether their ballot should be tabulated.<sup>179</sup>

### **How do election officials determine whether a provisional ballot will be counted?**

A provisional ballot will be counted only after verification of the individual’s eligibility to vote in the precinct where the ballot was cast. To establish the individual’s eligibility the clerk must either locate the individual’s valid voter registration record or must establish identity and residency by using a Michigan operator’s license, chauffeur’s license, personal ID card, other government issued photo ID card, or a photo ID card issued by a state university or college and any other document that reflects the individual’s current address.<sup>180</sup>

After verification of eligibility, the provisional ballot will be processed as a challenged ballot. Specifically, the election officials before placing the provisional ballot in the ballot box will: 1) mark the ballot in pencil with the same number as assigned to the voter on the poll list, and; 2) conceal the marking by placing an adhesive slip of blank paper, similar to the paper of the ballot, over the marking.<sup>181</sup>

### **Does the voter who casts a provisional ballot have a right to present evidence or appear before the election officials evaluating whether it will count?**

No. Michigan law does not include a procedure whereby a voter may present evidence or appear before election officials while they are evaluating his or her provisional ballot. If a voter believes that her right to cast a provisional ballot was violated, the voter may file a complaint under the Help

America Vote Act, which will require the Bureau of Elections to conduct a hearing on the record, provide a remedy where appropriate, and publish the results of the procedures on its website.<sup>182</sup>

### **When will provisional ballots be counted?**

Within six (6) days of the election, the city or township clerk is required to determine the eligibility of the person who cast the provisional ballot.<sup>183</sup> Provisional ballots will be counted after the voter's eligibility to vote is verified.<sup>184</sup>

Michigan law permits provisional ballots to be counted on Election Day or the day after election, based upon the circumstances causing the voter to need a provisional ballot.<sup>185</sup> Where the election inspector has been able to verify the voter's information with the clerk and where the voter has presented proper photo identification that verifies her current address, her provisional ballot will be counted on Election Day and the election inspector will provide her with a notice that her vote has been counted.<sup>186</sup>

If the inspector was unable to verify information with the clerk or where the voter is at the wrong polling place or if she fails to show proper identification, the election inspector will provide her notice stating that her information will be verified within six (6) days after the election to determine if her vote will be counted, and if not, the reason it will not be counted.<sup>187</sup>

### **How can voters find out whether their provisional ballots have been counted?**

A free access system must be established so that the voter can determine whether her provisional ballot was counted and, if not counted, the reason for not counting the provisional vote. This access system must include at least one of the following:

- Toll-free number
- Internet site
- Mailed notice<sup>188</sup>

Because provisional ballots will be counted only if they are cast by a qualified registered voter in the proper precinct, it is imperative that every effort be made to find the voter's proper precinct.

### **Does the voter have a right of appeal?**

No, but the voter may file a complaint under the Help America Vote Act, which will require the Bureau of Elections to conduct a hearing on the record, provide a remedy where appropriate, and publish the results of the procedures on its website.<sup>189</sup>

## ENDNOTES

- 1 M.C.L. § 168.492 (2004).
- 2 Id.
- 3 M.C.L. § 168.492a (2004); see also Op. Atty. Gen, October 26, 1976, No. 5121.
- 4 Id.
- 5 M.C.L. § 168.509x (2004).
- 6 Mich. Exec. Order No. 1995-1 (Jan. 10, 1995).
- 7 M.C.L. § 168.500a (2004).
- 8 M.C.L. § 168.509v (2004).
- 9 Id.
- 10 M.C.L. § 168.495 (2004).
- 11 M.C.L. § 168.11 (2004).
- 12 M.C.L. § 168.509t (2) (2004).
- 13 M.C.L. § 168.509t (2)(a)-(c)
- 14 M.C.L. § 168.509x (b)(c) (2004).
- 15 M.C.L. § 168.509aa(2)(a)-(c) (2004).
- 16 M.C.L. § 168.506 (2004).
- 17 M.C.L. § 168.507a(1) (2004).
- 18 M.C.L. § 168.507b(1)(a)-(c) (2004).
- 19 M.C.L. § 168.504(1) (2004).
- 20 Department of State. “Voter Information Center,” at [http://www.michigan.gov/sos/0,1607,7-127-1633\\_11619-123989--,00.html#5](http://www.michigan.gov/sos/0,1607,7-127-1633_11619-123989--,00.html#5).
- 21 M.C.L. § 168.509w(3) (2004).
- 22 M.C.L. § 168.509w(2) (2004).
- 23 M.C.L. § 168.509w(3) (2004).
- 24 M.C.L. § 168.497(2) (2004).
- 25 42 U.S.C. § 1973gg et. seq.
- 26 42 U.S.C. § 1973gg-6(a)(2).
- 27 M.C.L. § 168.500c (2004).
- 28 M.C.L. § 168.500d (2004).
- 29 Help America Vote Act of 2002 (HAVA), 42 U.S.C. § 15483(a)(5) (2002).
- 30 M.C.L. § 168.495(a)-(j) (2004); See also 42 U.S.C. § 1583(a)(5) (2002).
- 31 M.C.L. § 168.495(j) (2004).
- 32 42 U.S.C. § 15483 (b) (2002).
- 33 42 U.S.C. § 15483 (b)(2)(A) (2002).
- 34 M.C.L. § 168.509t(2); see also Michigan Department of State, Bureau of Elections Memorandum: HAVA Compliance Procedures and Processes at p. 4 (June 16, 2004)(on file with Advancement Project).
- 35 M.C.L. § 168.523 (2004).
- 36 <sup>36</sup> 1997 Mich. AG LEXIS 1 (Mich. AG 1997)
- 37 Id.
- 38 M.C.L. § 168.759 (2006)
- 39 M.C.L. § 168.523a(5) (2006)
- 40 M.C.L. § 168.509dd(2)(a) (2004).
- 41 M.C.L. § 168.509b (2004).
- 42 M.C.L. § 168.509c (2004).
- 43 M.C.L. § 168.509aa(4) (2004).
- 44 M.C.L. § 168.509cc (2004); See also M.C.L. 168.512(2004).
- 45 M.C.L. § 168.509cc(1) (2004); M.C.L. § 168.512 (2004); M.C.L. § 168.514 (2004).
- 46 MI Pub Acts 2004, No. 92
- 47 Advancement Project Phone Interview with Brad Whitman, Michigan Department of State, Bureau of Elections, June 12, 2006.
- 48 M.C.L. § 168.509aa (2004)

49 M.C.L. § 168.499 (2006)  
50 M.C.L. §168.758b (2004), Advancement Project Phone Interview with Michigan Department of State, Bureau of Elections, August 17, 2004.  
51 M.C.L. § 168.758b (2004).  
52 Advancement Project Phone Interview with Brad Whitman, Michigan Department of State, Bureau of Elections, June 12, 2006.  
53 Advancement Project Phone Interview with Michigan Department of State, Bureau of Elections, August 17, 2004.  
54 Advancement Project Phone Interview with Michigan Department of State, Bureau of Elections, August 17, 2004.  
55 M.C.L. § 168.521 (2004).  
56 M.C.L. § 168.516 (2004).  
57 See Id.; see also Op. Atty. Gen. No. 5107 (1976).  
58 M.C.L. § 168.522(1) (2004).  
59 M.C.L. §§ 168.509gg, 168.522, &168.522a (2004).  
60 M.C.L. §15.233 (2004)  
61 M.C.L. §15.232(d) - (e) (2004).  
62 M.C.L. § 168.509dd (2004).  
63 Id. at (2).  
64 Id.; see also § 168.509aa(1) (2004).  
65 M.C.L. § 168.509dd(3)(a)-(d) (2004).  
66 42 U.S.C. § 1973gg -6  
67 M.C.L. § 168.509aa (2004).  
68 Id at (3)(a)-(c).  
69 M.C.L. § 168.523a(1)(a) (2004).  
70 Id. at (1)(b).  
71 M.C.L. § 168.523a(5) (2004).  
72 See Michigan Department of State Procedure for Issuing a Ballot If a Voter's Name Does Not Appear on Registration List (June 16, 2004), available at [www.michigan.gov/sos/](http://www.michigan.gov/sos/); Michigan Department of State Bureau of Elections Managing Your Precinct on Election Day Election Inspectors' Procedure Manual (June 2004).  
73 M.C.L. § 168.758(1)(a)-(f) (2004).  
74 M.C.L. § 168.758a(1)(a)-(b) (2004).  
75 M.C.L. § 168.759 (2004).  
76 Id. at (3)(a)-(c).  
77 Id. at (4).  
78 Id.  
79 Id.  
80 Id.  
81 M.C.L. § 168.759 (2004).  
82 See Michigan Secretary of State, available at Important 2004 Election Dates, [www.michigan.gov](http://www.michigan.gov).  
83 M.C.L. § 168.761 (2004).  
84 Id. If requested by the applicant, the clerk will mail the ballot to an address outside the city or township or to a hospital or similar institution. Id. A clerk may mail or deliver an absentee ballot to a post office box, if the applicant requests such delivery, the applicant normally receives her personal mail at the post office box, and the applicant does not receive her mail at her registration address. Id.  
85 Id.  
86 M.C.L. § 168.509t(2) (2004).  
87 See M.C.L. § 168.759a (2004).  
88 M.C.L. § 168.509t(2)(a)-(c) (2004).  
89 M.C.L. § 168.769(3) (2004).  
90 M.C.L. § 168.764a (2004).  
91 Id.  
92 Id.  
93 Id.  
94 Id. at (c).  
95 Id. at (d).

## MICHIGAN VOTER PROTECTION LAWS IN A NUTSHELL

- 96 Id.; see also, § 168.764b(4) (2004)
- 97 Id. at (5).
- 98 M.C.L. § 168.764a(d)
- 99 M.C.L. § 168.801 (2004).
- 100 M.C.L. § 168.766 (2004).
- 101 M.C.L. § 168.767 (2004).
- 102 M.C.L. § 168.768 (2004).
- 103 M.C.L. § 168.769(1) (2004).
- 104 Id.
- 105 M.C.L. § 168.769(3) (2004).
- 106 Id.; see also § 168.727 (2004).
- 107 M.C.L. § 168.79a(1) (2004).
- 108 Id at a(2) (2004).
- 109 M.C.L. § 168.759a(1) (2004).
- 110 Id. at (a)-(e).
- 111 M.C.L. § 168.759a(7)(a)-(d) (2004). For the definition of “Michigan national guard,” see M.C.L. § 32.505 (2004).
- 112 M.C.L. § 168.759a(3) (2004).
- 113 M.C.L. § 168.759b (2004).
- 114 Id.
- 115 Id.
- 116 Id.
- 117 M.C.L. § 168.720 (2004).
- 118 M.C.L. § 168.662(4)(2004).
- 119 M.C.L. § 168.662 (2004).
- 120 M.C.L. § 168.499(3)(2004).
- 121 M.C.L. § 168.660 (2004).
- 122 M.C.L. § 168.744 (2004).
- 123 M.C.L. § 168.733(1) (2004).
- 124 M.C.L. § 168.733(2) (2004).
- 125 M.C.L. § 168.730(2) (2004).
- 126 M.C.L. § 168.727(3) (2004).
- 127 M.C.L. § 168.789 (2004).
- 128 M.C.L. § 168.736a (2004).
- 129 M.C.L. § 168.751 (2004).
- 130 Clyde Township in Allegan County and Buena Vista Township in Saginaw County provide language assistance in Spanish to voters pursuant to Section 203 of the Voting Rights Act. The Attorney General’s Language Minority Guidelines, 28 C.F.R. Part 55 (2006). Hamtramck in Wayne County requires language assistance in Bengali and Arabic pursuant a consent decree ordered United States v. City of Hamtramck, Civil Action No. 00-73541 (E.D. Mich, Aug 7, 2000),
- 131 M.C.L. § 168.662(2) (2004).
- 132 M.C.L. § 168.500 (2004).
- 133 M.C.L. § 168.662(5) (2004).
- 134 Id. at (6).
- 135 M.C.L. §§ 168.751 (2004); 168.789 (2004).
- 136 M.C.L. § 168.751 (2004).
- 137 See Michigan Department of State, The Right of Voters with Disabilities, available at [www.michigan.gov](http://www.michigan.gov).
- 138 M.C.L. § 168.742 (2004).
- 139 M.C.L. § 168.720 (2004).
- 140 M.C.L. § 168.507a(1)-(2) (2004).
- 141 M.C.L. § 168.507(1) (2004).
- 142 Id.
- 143 M.C.L. § 168.733(1) (2004).
- 144 M.C.L. § 168.727(1) (2004).

- 145 Id.  
146 M.C.L. § 168.523(1) (2004).  
147 M.C.L. § 168.727(1) (2004).  
148 Id.  
149 M.C.L. § 168.727(2) (2004).  
150 M.C.L. § 168.729 (2004).  
151 Id.  
152 Id.  
153 M.C.L. § 168.727(1) (2004).  
154 M.C.L. § 168.731 (2004).  
155 M.C.L. § 168.732 (2004).  
156 M.C.L. § 168.730(3) (2004).  
157 M.C.L. § 168.728 (2004).  
158 M.C.L. § 168.729 (2004).  
159 M.C.L. § 168.523a(1)-(2) (2004).  
160 M.C.L. § 168.744(1)(2004).  
161 M.C.L. § 168.727(3) (2004).  
162 M.C.L. § 168.733(4) (2004).  
163 M.C.L. §§ 168.932 (2004).  
164 M.C.L. § 168.931(b)(2004).  
165 Id. at (d).  
166 Id. at (e).  
167 M.C.L. § 168.778 (2004).  
168 M.C.L. § 168.523a(8) (2004).  
169 M.C.L. § 168.523a(1)(b)(2004).  
170 Id.  
171 Id. at (1)(a) (2004).  
172 Id at (1)(b)  
173 Id. at (4).  
174 Id. at (5).  
175 M.C.L. § 168.523a(2) (2004).  
176 M.C.L. § 168. 523a(5) (2004).  
177 M.C.L. § 168.668a (2004).  
178 M.C.L. § 168.523a(7) (2004).  
179 Id.  
180 M.C.L. § 168.813(1) (2004).  
181 M.C.L. §§ 168.813, 168.745 (2004).  
182 Michigan Bureau of Elections, HAVA Complaint Process – Guidelines (2006), available at [http://www.michigan.gov/documents/HAVAComplaintProc\\_102255\\_7.pdf](http://www.michigan.gov/documents/HAVAComplaintProc_102255_7.pdf).  
183 M.C.L. § 168.813(1) (2004).  
184 Id.; see also §168.829 (2004).  
185 M.C.L. § 168.523a(1)(b), (4) & (5)(2004).  
186 Id. at (4) & (7).  
187 Id at (7)  
188 Id. at (7).  
189 Michigan Bureau of Elections, HAVA Complaint Process – Guidelines (2006), available at [http://www.michigan.gov/documents/HAVAComplaintProc\\_102255\\_7.pdf](http://www.michigan.gov/documents/HAVAComplaintProc_102255_7.pdf).