



House Elections and Ethics
September 21, 2021
HBs 5268 and 5288: Oppose

The ACLU of Michigan is opposed to House Bills 5268 and 5288 because they will make absentee voting significantly and needlessly more difficult for Michigan voters.

For the November 2020 election, many voters used the applications mailed to them by the Secretary of State – an entity they knew they could trust. HB 5268 will prohibit the Department of State and local clerks, entities entrusted by Michigan voters with the administration of elections, from doing what any person, organization, or political party can do: mail an absent voter ballot application to registered voters in Michigan. Government initiating the process of voting ensures all voters have equal access to the ballot regardless of party or zip code. It improves participation in our elections and builds trust.

Making it more difficult for registered voters to submit an absent voter ballot application will not make the absentee voting process more secure. There are already safeguards in place, which worked without incident in 2020, to ensure people do not obtain ballots they are not entitled to through signature verification processes and other security features.

HB 5268's restrictions on how a Michigan voter may receive an absent voter ballot application raises concerns under the Michigan Constitution¹. Proposal 3 of 2018, supported by over two-thirds of voters in 2018, granted Michigan voters a constitutional right "to vote an absent voter ballot without giving a reason," and requires that the provision's text "be liberally construed in favor of voters' rights in order to effectuate its purposes." The Michigan Court of Appeals agreed last year that proactively providing absent voter applications to registered Michigan voters is consistent with the Secretary of State's "constitutional obligation" to effectuate the Constitution's purpose.

House Bill 5288 will roll back modernizations to Michigan's absent voter application process with no clear benefit to security. This bill will only serve to restrict access to absentee voting for Michiganders and make the administration of elections more burdensome for clerks.

Currently, Michigan voters who possess a state identification card or driver's license have the option to apply for an absentee ballot online. Because the voter does not provide a wet signature when they apply for an absentee ballot online, the voter must instead pass an alternative security feature and provide correct personal identifying information. This information includes their driver's license or ID number, date of birth, eye color, and the last four digits of their social security number. This process injects an appropriate amount of security into the online application process.

¹ [Article 2, § 4 of the Michigan Constitution](#)



The information required of registered voters who apply for an absentee ballot online is the same information required of Michigan residents who register to vote online, a modernization made in 2018 that was supported by the Michigan House of Representatives, unanimously.

We urge the committee to reject both HB 5268 and 5288 today.

Merissa Kovach, Policy Strategist
ACLU of Michigan
mkovach@aclumich.org