



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

December 19, 2022

NOTICE OF FILING

ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
State Office of Regulatory Reinvention (Administrative Rule #2021-062-ST)
Legislative Service Bureau (Secretary of State Filing #22-12-03)
Department of State

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Michigan Department of Licensing and Regulatory Affairs and the State Office of Regulatory Reinvention filed Administrative Rule #2021-062-ST (Secretary of State Filing #22-12-03) on this date at 2:30 P.M. for the Department of State, entitled "Online Absent Voter Ballot Applications".

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

Sincerely,

Jocelyn Benson
Secretary of State

Lashana Threlkeld, Departmental Supervisor
Office of the Great Seal

Enclosure



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

ORLENE HAWKS
DIRECTOR

December 19, 2022

The Honorable Jocelyn Benson
Secretary of State
Office of the Great Seal
Richard H. Austin Building – 1st Floor
430 W. Allegan
Lansing, MI 48909

RECEIVED/FILED
OFFICE OF THE SECRETARY OF STATE
2022 DEC 27 PM 2:28
LANSING, MICHIGAN

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules
Administrative Rules #: 2021-62 ST

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated August 30, 2021 for the Department of State “**Online Absent Voter Ballot Application**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

Michigan Office of Administrative Hearings and Rules



Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of State dated August 30, 2021, adding R 168.31, R 168.32, R 168.33, R 168.34, and R 168.35 of the Department's rules entitled "Online Absent Voter Ballot Application." I approve the rules as to form, classification, and arrangement.

Dated: December 8, 2021

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,
Legal Counsel



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated August 30, 2021, in which the Department of Secretary of State proposes to modify a portion of the Michigan Administrative Code entitled "**Online Absent Voter Ballot Application**" by:


- ◆ Adding R 168.31, R 168.32, R 168.33, R 168.34, and R 168.35.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: December 8, 2021

Michigan Office of Administrative Hearings and Rules

By: 
Katie Wienczewski,
Attorney



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

CERTIFICATE OF ADOPTION

(By authority conferred on the secretary of state by section 31 of the Michigan election law, 1954 PA 116, MCL 168.31)

R 168.31, R 168.32, R 168.33, R 168.34, and R 168.35 are added to the Michigan Administrative Code, as follows:

Date: MONTH DAY, 2022

A handwritten signature in cursive script that reads "Jocelyn Benson".

Jocelyn Benson, Secretary of State

DEPARTMENT OF STATE

BUREAU OF ELECTIONS

ONLINE ABSENT VOTER BALLOT APPLICATION

Filed with the secretary of state on December 19, 2022

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the secretary of state by section 31 of the Michigan election law, 1954 PA 116, MCL 168.31)

R 168.31, R 168.32, R 168.33, R 168.34, and R 168.35 are added to the Michigan Administrative Code, as follows: o

R 168.31 Definitions.

Rule 1. As used in these rules:

- (a) "Absent voter ballot application" means the paper application developed by the secretary of state or the online application described in R. 168.32.
- (b) "Jurisdiction" means the city or township in which the voter is registered.
- (c) "Manual digital signature" means a digitally captured image of a registered voter's handwritten signature.
- (d) "Qualified Voter File" means the voter registration database maintained by the secretary of state.
- (e) "Stored digital signature" means the image of the registered voter's signature captured by the department of state and maintained in the department of state's motor vehicle database.

R 168.32 Maintenance of online absent voter ballot application; form.

Rule 2. (1) The secretary of state shall maintain an online absent voter ballot application.

(2) This online absent voter ballot application must provide an option that allows qualified and registered voters to request an absentee ballot for an election occurring in their jurisdiction.

(3) The online absent voter ballot application must be in substantially the same form as the absent voter ballot application developed by the secretary of state under section 759 of the Michigan election law, 1954 PA 116, MCL 168.759.

R 168.33 Use of digital signature on online absent voter ballot applications.

Rule 3. (1) The online absent voter ballot application must provide an opportunity for a voter to use the voter's stored digital signature on file with the secretary of state on the application.

(2) In order to allow a voter to use the voter's stored digital signature, the online absent voter ballot application must verify the voter's identity and registration status by requesting the voter's name, complete driver's license or state ID number, full date of birth, last four digits of the voter's social security number, and eye color.

(3) For registered voters whose stored digital signature is on file with the secretary of state, the online absent voter ballot application must be signed with that stored digital signature.

(4) Registered voters without a stored digital signature on file with the secretary of state may provide a manual digital signature by uploading a photograph of their physical handwritten signature to the online absent voter ballot application.

(5) Completed online absent voter ballot applications, including digital signature, must be sent electronically through the Qualified Voter File to the city or township clerk for processing. An application signed using a stored digital signature or manual signature must be treated identically as an application signed with a physical handwritten signature.

R 168.34 Processing online absent voter ballot application.

Rule 4. The clerk of a city or township shall process online absent voter ballot applications in the same manner as all absent voter ballot applications submitted by a voter pursuant to section 759 or 759a of the Michigan election law, 1954 PA 116, MCL 168.759 or 168.759a.

R 168.35 Prohibited conduct.

Rule 5. Online absent voter ballot applications are subject to the same prohibitions governing completion and submission of all absent voter ballot applications.

FILED WITH SECRETARY OF STATE

ON 12/19/22 AT 2:30 P.M.