



KNOW YOUR VOTING RIGHTS: FREQUENTLY ASKED QUESTIONS ABOUT VOTING IN MICHIGAN FOR CITIZENS CURRENTLY OR FORMERLY INCARCERATED¹

Q. Can I Register and Vote in Michigan if I Have a Criminal Record?

A. Yes. Once you have been released from prison or jail, you can register and vote.¹ Both people with misdemeanor records and felony records can vote in Michigan.

Q. Can I Register and Vote if I am on Probation or Parole?

A. Yes. You can register and vote while on probation or parole.² If you need your agent's permission to leave your home, talk to your agent well in advance about permission to go vote on Election Day. If the agent will not give you permission, ask to talk to a supervisor. If you will be unable to leave your home on Election Day, request an absentee ballot. You may apply online for an absentee ballot at <https://mVIC.sos.state.mi.us/AVApplication>, or download a paper copy of the application at https://www.michigan.gov/documents/AbsentVoterBallot_105377_7.pdf.

Q. How Do I Register to Vote?

A. Before October 20, 2020, you have many ways to register to vote. You can register online at Michigan.gov/VoterRegistration, at your Secretary of State branch office, at your city/township or county clerk's office, at any state agencies that provides public assistance or services to people with disabilities, or through a voter registration drive. You can also mail in a completed registration form, found at https://www.michigan.gov/documents/MIVoterRegistration_97046_7.pdf, which must be postmarked by October 19, 2020. From October 20, 2020 through 8 p.m. on Election Day, November 3, 2020, you can register by going to your city or township clerk's office and providing proof of residency. If you are incarcerated, ask the jail staff if they have registration forms, or call 866-OUR-VOTE (866-687-8683) for help.

Q. Can I Register and Vote If I am Incarcerated?

A. Whether you can register and vote while you are incarcerated depends on whether you are serving a sentence in jail or prison after being convicted or being detained pretrial.³

Q. Can I Register and Vote If I am Serving a Sentence in Jail or Prison?

A. No. If you have been convicted and are serving a sentence in jail or prison, you cannot register or vote.⁴

Q. Can I Register and Vote If I am a Pre-Trial Detainee?

¹ "A person who . . . has been legally convicted and sentenced for a crime for which the penalty imposed is confinement in jail or prison shall not vote, offer to vote, attempt to vote, or be permitted to vote at an election *while confined*." M.C.L. § 168.758b (emphasis added). A person can vote once no longer confined in a jail or prison. *U.S. v. Bridges*, 696 F.3d 474, 475 (6th Cir. 2012).

² *People v. Roebuck*, 2008 WL 1914893, n. 1 (2008) (citing M.C.L. § 168.758b and stating "a convicted felon who is not confined for a felony conviction at the time of an election, e.g. a person who has completed a felony prison sentence or even a person on probation or parole for a felony, is eligible to vote in Michigan"); *U.S. v. Gilliam*, 778 F. Supp. 935, 937 (E.D. Mich. 1991), *rev'd* on other grounds, 979 F.2d 436 (6th Cir. 1992)) ("As is readily apparent, Michigan restores the convicted felon's right to vote upon the felon's release from prison."); *Hampton v. U.S.*, 191 F.3d 695, 699 (6th Cir. 1999) (right to vote restored once person is "released from custody").

³ See M.C.L. § 168.758b. In addition, M.C.L. § 168.492a provides that a person confined in jail who is otherwise a qualified elector may register if being held prior to trial or sentence, and states that "[t]he person shall be deemed a resident of the city, township, and address at which he resided next prior to confinement. A person while confined in a jail after being convicted and sentenced shall not be eligible to register."

⁴ M.C.L. § 168.758b; M.C.L. § 168.492a.

A. Yes. If you are awaiting trial and have not been convicted, you can vote.⁵ You should register and vote in the city where you normally live, even if you are in a jail someplace else.⁶

Q. Can I Register and Vote if I am in a Locked Residential Facility other than a Jail or Prison?

A. It depends. The law says that you cannot vote if you are confined in jail or prison serving a sentence for your conviction.⁷ If you are prisoner status, and are in a facility such as a boot camp, you probably cannot vote. However, if you are on parole or probation and are placed in a residential facility, such as a drug treatment program, that is not a jail or prison, you are eligible to vote. Ask your agent for permission to leave the facility to vote, or request your absentee ballot be mailed to you.

Q. Can I Register and Vote if I Was Tried as a Juvenile and am in a Juvenile Facility?

A. Yes. If your case was handled in juvenile court, you are now at least 18 years old, and you are being held by the Department of Human Services, you can vote.⁸ However, if you were convicted in adult court and are in jail or prison, you cannot vote.

Q. How Do I Vote If I am a Pre-Trial Detainee or in a Locked Residential or Juvenile Facility?

A. Request an absentee ballot by applying online at <https://mVIC.sos.state.mi.us/AVApplication>, or download a paper copy of the application at https://www.michigan.gov/documents/AbsentVoterBallot_105377_7.pdf. A member of your immediate family or a person living in your household can return your completed application to your city or township clerk on your behalf. If those options are not available to you, any other registered voter can turn it for you if they sign the certificate on the bottom of the application.⁹ Send in your application as soon as possible to ensure you receive your absentee ballot in time. Your local clerk's office must receive your application by 5 p.m. on Friday, October 30, 2020 in order to mail you a ballot, so you should send it as soon as possible. Your clerk's address can be readily found on the website of the Michigan Secretary of State at <http://www.michigan.gov/vote>. If you are jailed shortly before Election Day, you can request an emergency absentee ballot until 4 p.m. on Election Day by contacting your city or township clerk. Return your completed absentee ballot to your local clerk by mail or hand-delivery as soon as possible and no later than Election Day.¹⁰ A member of your immediate family or a person living in your household can return your completed ballot to your city or township clerk on your behalf. If these options for returning your ballot are unavailable to you, you can call your city or township clerk and ask the clerk or a staff member to pick up your completed ballot. You must call and request this before 5pm on Friday, October 30, 2020.

Q. Can I Vote if My Polling Place is in a School and I am on the Sex Offender Registry?

A. Yes. Registered voters who are on the registry can vote in school buildings. Leave the school grounds after you vote.¹¹

Q. I Have Other Questions about Voting. Where Can I Get Help?

A. Call the nonpartisan Election Protection hotline at 866-OUR-VOTE (866-687-8683). Or go to MichiganVoting.org to see the Michigan's Know Your Voting Rights guide, or visit the website of the Michigan Secretary of State at <http://www.michigan.gov/vote>.

⁵ M.C.L. § 168.758b; M.C.L. § 168.492a; *Arlee v. Lucas*, 55 Mich. App. 340, 347 (1974).

⁶ "An elector shall not be deemed to have gained or lost a residence...while confined in jail or prison." M.C.L. § 168.11.

⁷ M.C.L. § 168.758b; M.C.L. § 168.492a.

⁸ Confinement by the Department of Human Services, which handles custodial placements for juveniles, does not qualify as "confinement in jail or prison", and thus does not prevent those individuals from voting. See 1995 Mich. Op. Att'y Gen. No. 6879 (Nov. 14, 1995).

⁹ M.C.L. 168.759(4).

¹⁰ M.C.L. 168.759b; M.C.L. 168.761(3).

¹¹ Michigan law bars registrants from working, residing or "loitering" within 1000 feet of a school. See M.C.L. §§ 28.734, 28.735. "Loitering" is defined as "remain[ing] for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors." M.C.L. § 28.733(b). Thus, registrants may enter schools for purposes other than observing or contacting minors. This includes voting.