



## HAVE A RECORD? KNOW YOUR VOTING RIGHTS: FREQUENTLY ASKED QUESTIONS ABOUT VOTING IN MICHIGAN<sup>1</sup>

### **Q. Can I Vote in Michigan if I Have a Criminal Record?**

A. Yes. Once you have been released from prison or jail, you can vote.<sup>2</sup> Both people with misdemeanor records and felony records can vote in Michigan.

### **Q. Can I Vote if I am on Probation or Parole?**

A. Yes. You can vote while on probation or parole.<sup>3</sup> 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 application.

### **Q. Can I Vote If I am Incarcerated?**

A. Whether you can vote while you are incarcerated depends on whether you are serving a sentence or whether you are being held pre-trial.<sup>4</sup>

### **Q. Can I Vote If I am Serving a Sentence in Jail or Prison?**

A. No. If you have been convicted and are serving your sentence, you cannot vote.<sup>5</sup>

### **Q. Can I Vote If I am a Pre-Trial Detainee?**

A. Yes. If you are awaiting trial and have not been convicted, you can vote.<sup>6</sup> You should register and vote in the city where you normally live, even if you are in a jail someplace else.<sup>7</sup>

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<sup>1</sup> This FAQ is a summary of sometimes complex legal principles and should not be relied upon as legal advice. If you have a specific question or problem, you may wish to seek the advice of a lawyer. Voting laws are different in each state. This FAQ applies only to voting in Michigan.

<sup>2</sup> "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.

<sup>3</sup> *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").

<sup>4</sup> 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."

<sup>5</sup> M.C.L. § 168.758b; M.C.L. § 168.492a.

<sup>6</sup> M.C.L. § 168.758b; M.C.L. § 168.492a.

<sup>7</sup> "An elector shall not be deemed to have gained or lost a residence . . . while confined in jail or prison." M.C.L. § 168.11.

**Q. Can I 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.<sup>8</sup> 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 contact your local clerk's office about your eligibility to request an absentee ballot.

**Q. Can I 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.<sup>9</sup> However, if you were convicted in adult court and are in jail or prison, you cannot vote.

**Q. How Do I Vote If I Cannot Go to the Polls because I am a Pre-Trial Detainee or because I am in a Locked Residential or Juvenile Facility?**

A. Request an absentee ballot application.<sup>10</sup> Send in your request well in advance by writing to your local clerk's office. You can also ask a friend or family member to get an absentee ballot for you from the clerk's office, or by visiting <http://www.michigan.gov/vote> and clicking on "Absentee Voting." In order to vote in the November 2012 election, you must submit your absentee ballot application to your local clerk's office by 2 p.m. on November 3, 2012. 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.

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

A. Yes. Registrants can vote in school buildings. However, you should leave the school grounds after you are done voting.<sup>11</sup>

**Q. I have Other Questions About Voting. Where Can I Get Help?**

A. You can get general information about voting by going to the ACLU of Michigan's Let Me Vote webpage at <http://www.aclumich.org/letmevote>, or by visiting the website of the Michigan Secretary of State at <http://www.michigan.gov/vote>.

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<sup>8</sup> M.C.L. § 168.758b.

<sup>9</sup> 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).

<sup>10</sup> The absentee ballot application specifically lists "confine[ment] to jail awaiting trial or arraignment" as a basis for voting absentee. M.C.L. § 168.759(5). *See also O'Brien v. Skinner*, 414 U.S. 524 (1974) (pretrial detainees must be allowed to vote absentee ballots just like other eligible voters who cannot go to the polls to vote).

<sup>11</sup> 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.