

## **Michigan: Limits on Voter Eligibility Challenges**

This resource details state and federal laws that guard voters against unfounded challenges to their eligibility.

Michigan, like most states, allows private individuals to challenge another person's eligibility to vote. This resource details state and federal laws that govern this process and protect challenged voters. Michigan's strong voter protections include explicit prohibitions against challenges made indiscriminately or without good cause, as well as requirements that pre-election challenges must be written, sworn, and notarized.

### **Michigan law allows challenges before and during in-person voting, but under limited circumstances.**

- Only voters registered in the same municipal jurisdiction as the voter in question can make a pre-election challenge.<sup>1</sup>
- During in-person voting, only three groups of people can challenge voters: registered voters from the same precinct, formally appointed and credentialed election challengers, and election inspectors (poll workers).<sup>2</sup>

### **Michigan law constrains pre-election challenges.**

- Pre-election challenges must be submitted in the form of a sworn, notarized statement (an affidavit) specifying the grounds for the challenge.<sup>3</sup>
- Pre-election challenges must be individualized and cannot list more than one voter.<sup>4</sup>
- Pre-election challenges made "indiscriminately and without good cause for the purpose of harassment" are a misdemeanor offense.<sup>5</sup>
- After receiving a written, sworn pre-election registration challenge, the clerk may take steps to verify that information. If the information appears valid, the clerk must mail a

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<sup>1</sup> Mich. Comp. Laws § 168.512.

<sup>2</sup> Mich. Comp. Laws § 168.727(1); see also Michigan Bureau of Elections, *The Appointment, Rights, and Duties of Election Challengers and Poll Watchers*, 1, 15, March 2024, [https://www.michigan.gov/sos/-/media/Project/Websites/sos/01vanderroest/SOS\\_ED\\_2\\_CHALLENGERS.pdf?rev=35366ca14b9e45798a3887dea7efa615&hash=61B5E3CB1FE16FA9BB5C67FC4582EB95](https://www.michigan.gov/sos/-/media/Project/Websites/sos/01vanderroest/SOS_ED_2_CHALLENGERS.pdf?rev=35366ca14b9e45798a3887dea7efa615&hash=61B5E3CB1FE16FA9BB5C67FC4582EB95).

<sup>3</sup> Mich. Comp. § Laws 168.512.

<sup>4</sup> Letter from Jonathan Brater, Director, MI Bureau of Elections, to MI Clerks & Elections Directors, February 12, 2024, [https://content.govdelivery.com/attachments/MISOS/2024/02/12/file\\_attachments/2781012/Letter%20to%20Clerks%2002\\_12\\_2024.pdf](https://content.govdelivery.com/attachments/MISOS/2024/02/12/file_attachments/2781012/Letter%20to%20Clerks%2002_12_2024.pdf).

<sup>5</sup> Mich. Comp. Laws § 168.512.

notice to the challenged voter, who then has 30 days to contest the challenge either in person or by affidavit.<sup>6</sup>

- For challenges based on an alleged change of address, even if the voter does not respond to the notice, the clerk generally must wait two federal election cycles before cancelling their registration.<sup>7</sup>
- For valid challenges based on grounds other than a change of address, if the voter fails to appear and swear or file an affidavit of eligibility, the clerk will cancel the voter's registration.<sup>8</sup>
- For all challenges, federal law prohibits the systematic removal of voters within 90 days of a federal election.<sup>9</sup> This prohibition includes removals based solely on a challenger's or others' internet searches or database matching, rather than on personal knowledge or individualized evidence.

**During in-person voting, Michigan law requires a fair and orderly process for the challenged voter.**

- Challenges must be based on knowledge or "good reason to suspect" that a voter is not registered or qualified to vote or has already voted.<sup>10</sup> Challenges are also impermissible if the challenger fails to explain the reason they believe the voter is ineligible.<sup>11</sup>
- Challengers cannot make challenges indiscriminately or without good cause,<sup>12</sup> and challenges made "for the purpose of annoying or delaying voters" are a misdemeanor offense.<sup>13</sup>
- Challenges cannot be made to intimidate or deter voters from, or interfere with, the exercise of their right to vote.<sup>14</sup> If an individual disrupts the voting process while making a challenge, poll workers may contact election officials or law enforcement to eject the disruptor from the polling place.<sup>15</sup>
- Each voting location must have an election inspector designated as the "challenger liaison" responsible for adjudicating permissible challenges.<sup>16</sup> Challengers are only

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<sup>6</sup> *Id.*

<sup>7</sup> 52 U.S.C. §§ 20507(a)(3), (d).

<sup>8</sup> Mich. Comp. Laws § 168.512.

<sup>9</sup> 52 U.S.C. § 20507(c)(2)(a).

<sup>10</sup> Mich. Comp. Laws § 168.727(1).

<sup>11</sup> *Id.*

<sup>12</sup> Mich. Comp. Laws § 168.727(3).

<sup>13</sup> *Id.*

<sup>14</sup> Mich. Comp. Laws § 168.932(a), (d); Mich. Const. art II, § 2; *see also* Mich. Comp. Laws §§ 168.733, 168.10; 168.727(1); Order, *O'Halloran v. Mich. Secretary of State*, (No. 363503), 981 N.W.2d 149, <https://www.democracydocket.com/wp-content/uploads/2022/10/11.3.22-Order-Staying-COC-Order35.pdf>; Michigan Bureau of Elections, *Election Officials' Manual*, 28–29, [https://www.michigan.gov/sos/-/media/Project/Websites/sos/01mcalpine/XI\\_Election\\_Day\\_Issues.pdf?rev=55e142f250fe4e76a801c0af77baf0f8&hash=0DEA5AD70BF0A0E5C40A06E4DC088C5F](https://www.michigan.gov/sos/-/media/Project/Websites/sos/01mcalpine/XI_Election_Day_Issues.pdf?rev=55e142f250fe4e76a801c0af77baf0f8&hash=0DEA5AD70BF0A0E5C40A06E4DC088C5F). ("The challenger must make the challenge in a discrete manner not intended to embarrass the challenged voter, intimidate other voters, or otherwise disrupt the election process."). This manual is the subject of pending litigation but is currently in effect.

<sup>15</sup> Michigan Bureau of Elections, *Election Officials' Manual*, 34.

<sup>16</sup> Michigan Bureau of Elections, *The Appointment, Rights, and Duties of Challengers and Poll Watchers*, 5, 10.

permitted to communicate with the challenger liaison (unless otherwise instructed by the liaison or member of a clerk's staff).<sup>17</sup>

- If a challenger liaison determines that a challenge is permissible, they must administer an oath to the voter and ask only those questions necessary to confirm the voter's eligibility.<sup>18</sup> If the voter confirms they are eligible, the challenge must be rejected and the voter allowed to vote.<sup>19</sup>
- A separate process exists for voters challenged on the ground they already voted an absentee ballot. If the poll book indicates an absent voter ballot was sent to the voter and the voter is unable to surrender the absent voter ballot at the voting location, the clerk must verify the ballot has not been submitted. The voter then completes an affidavit stating they did not successfully return the absentee ballot, and then can vote using a regular ballot.<sup>20</sup>

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Voters in Michigan have the right to vote free from intimidation under federal and state law. Baseless challenges to a voter's eligibility can harass and intimidate the voter being challenged, as well as other voters waiting to vote at the polls. More information on the federal and state laws that protect Michigan voters from intimidation can be found [here](#).

If voters discover they've been mistakenly removed from the rolls, they can re-register and vote at their township or clerk's office during early voting and on Election Day.<sup>21</sup> More information on same day registration and voting can be found [here](#).

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<sup>17</sup> *Id.* at 6.

<sup>18</sup> Mich. Comp. Laws § 168.729.

<sup>19</sup> *Id.*

<sup>20</sup> Michigan Bureau of Elections, *The Appointment, Rights, and Duties of Challengers and Poll Watchers*, 16.

<sup>21</sup> Mich. Comp. Laws § 168.497.