

FIRST REGULAR SESSION

HOUSE BILL NO. 287

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CONWAY (10).

0632L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.277, 115.279, and 115.283, RSMo, and to enact in lieu thereof three new sections relating to absentee voting, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.277, 115.279, and 115.283, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 115.277, 115.279, and 115.283, to read as follows:

115.277. 1. Except as provided in subsections 2, 3, 4, and 5 of this section, any registered voter of this state may vote by absentee ballot for all candidates and issues for which such voter [would be] **is** eligible to vote at the polling place [if such voter expects to be prevented from going to the polls to vote on election day due to:

(1) Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;

(2) Incapacity or confinement due to illness or physical disability, including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability;

(3) Religious belief or practice;

(4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place;

(5) Incarceration, provided all qualifications for voting are retained].

2. Any person in federal service[, as defined in section 115.275,] who is eligible to register and vote in this state but is not registered may vote only in the election of presidential and vice presidential electors, United States senator and representative in Congress even though

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 the person is not registered. Each person in federal service may vote by absentee ballot or, upon
18 submitting an affidavit that the person is qualified to vote in the election, may vote at the person's
19 polling place.

20 3. Any interstate former resident[, as defined in section 115.275,] may vote by absentee
21 ballot for presidential and vice presidential electors.

22 4. Any intrastate new resident[, as defined in section 115.275,] may vote by absentee
23 ballot at the election for presidential and vice presidential electors, United States senator,
24 representative in Congress, statewide elected officials and statewide questions, propositions and
25 amendments from such resident's new jurisdiction of residence after registering to vote in such
26 resident's new jurisdiction of residence.

27 5. Any new resident[, as defined in section 115.275,] may vote by absentee ballot for
28 presidential and vice presidential electors after registering to vote in such resident's new
29 jurisdiction of residence.

115.279. 1. Application for an absentee ballot may be made by the applicant in person,
2 or by mail, or for the applicant, in person, by his or her guardian or a relative within the second
3 degree by consanguinity or affinity. The election authority shall accept applications by facsimile
4 transmission within the limits of its telecommunications capacity.

5 2. Each application shall be made to the election authority of the jurisdiction in which
6 the person is or would be registered. Each application shall be in writing and shall state the
7 applicant's name, address at which he or she is or would be registered, [his or her reason for
8 voting an absentee ballot,] **whether the voter is incapacitated or confined due to illness or**
9 **physical disability or is a person who is primarily responsible for the physical care of a**
10 **person who is incapacitated or confined due to illness or disability**, the address to which the
11 ballot is to be mailed, if mailing is requested, and for absent uniformed services and overseas
12 applicants, the applicant's email address if electronic transmission is requested. Each application
13 to vote in a primary election shall also state which ballot the applicant wishes to receive. If any
14 application fails to designate a ballot, the election authority shall, within three working days after
15 receiving the application, notify the applicant by mail that it will be unable to deliver an absentee
16 ballot until the applicant designates which political party ballot he or she wishes to receive. If
17 the applicant does not respond to the request for political party designation, the election authority
18 is authorized to provide the voter with that part of the ballot for which no political party
19 designation is required.

20 3. [Except as provided in subsection 3 of section 115.281,] All applications for absentee
21 ballots received prior to the sixth Tuesday before an election shall be stored at the office of the
22 election authority until such time as the applications are processed in accordance with section
23 115.281. No application for an absentee ballot received in the office of the election authority by

24 mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday
25 immediately prior to the election shall be accepted by any election authority. No application for
26 an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the
27 election shall be accepted by any election authority, except as provided in subsections 6, 8 and
28 9 of this section.

29 4. Each application for an absentee ballot shall be signed by the applicant or, if the
30 application is made by a guardian or relative pursuant to this section, the application shall be
31 signed by the guardian or relative, who shall note on the application his or her relationship to the
32 applicant. If an applicant, guardian or relative is blind, unable to read or write the English
33 language or physically incapable of signing the application, he or she shall sign by mark,
34 witnessed by the signature of an election official or person of his or her own choosing. Any
35 person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be
36 guilty of a class one election offense.

37 5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who
38 resides outside the boundaries of the United States or who is on active duty with the Armed
39 Forces of the United States or members of their immediate family living with them may request
40 an absentee ballot for both the primary and subsequent general election with one application.

41 (2) The election authority shall provide each absent uniformed services voter and each
42 overseas voter who submits a voter registration application or an absentee ballot request, if the
43 election authority rejects the application or request, with the reasons for the rejection.

44 (3) Notwithstanding any other law to the contrary, if a standard oath regarding material
45 misstatements of fact is adopted for uniformed and overseas voters pursuant to the Help America
46 Vote Act of 2002, the election authority shall accept such oath for voter registration, absentee
47 ballot, or other election-related materials.

48 (4) Not later than sixty days after the date of each regularly scheduled general election
49 for federal office, each election authority which administered the election shall submit to the
50 secretary of state in a format prescribed by the secretary a report on the combined number of
51 absentee ballots transmitted to, and returned by, absent uniformed services voters and overseas
52 voters for the election. The secretary shall submit to the Election Assistance Commission a
53 combined report of such information not later than ninety days after the date of each regularly
54 scheduled general election for federal office and in a standardized format developed by the
55 commission pursuant to the Help America Vote Act of 2002. The secretary shall make the report
56 available to the general public.

57 (5) As used in this section, the terms "absent uniformed services voter" and "overseas
58 voter" shall have the meaning prescribed in [42 U.S.C. 1973ff-6] **52. U.S.C. Section 20310, as**
59 **amended.**

60 6. An application for an absentee ballot by a new resident[, as defined in section
 61 115.275,] shall be submitted in person by the applicant in the office of the election authority in
 62 the election jurisdiction in which such applicant resides. The application shall be received by
 63 the election authority no later than 7:00 p.m. on the day of the election. Such application shall
 64 be in the form of an affidavit, executed in duplicate in the presence of the election authority or
 65 any authorized officer of the election authority, and in substantially the following form:

66

67 "STATE OF.....

68 COUNTY OF....., ss.

69 I,....., do solemnly swear that:

70 (1) Before becoming a resident of this state, I resided at
 71 (residence address) in (town, township,
 72 village or city) of County in the state of

73 (2) I moved to this state after the last day to register to vote in such general presidential
 74 election and I am now residing in the county of, state of Missouri;

75 (3) I believe I am entitled pursuant to the laws of this state to vote in the presidential
 76 election to be held November, (year);

77 (4) I hereby make application for a presidential and vice presidential ballot. I have not
 78 voted and shall not vote other than by this ballot at such election.

79 Signed

80 (Applicant)

81

82 (Residence Address)

83 Subscribed and sworn to before me this day of,

84 Signed

85 (Title and name of officer authorized to administer oaths)"

86 7. The election authority in whose office an application is filed pursuant to subsection
 87 6 of this section shall immediately send a duplicate of such application to the appropriate official
 88 of the state in which the new resident applicant last resided and shall file the original of such
 89 application in its office.

90 8. An application for an absentee ballot by an intrastate new resident[, as defined in
 91 section 115.275,] shall be made in person by the applicant in the office of the election authority
 92 in the election jurisdiction in which such applicant resides. The application shall be received by
 93 the election authority no later than 7:00 p.m. on the day of the election. Such application shall
 94 be in the form of an affidavit, executed in duplicate in the presence of the election authority or
 95 an authorized officer of the election authority, and in substantially the following form:

96 "STATE OF

97 COUNTY OF, ss.

98 I,, do solemnly swear that:

99 (1) Before becoming a resident of this election jurisdiction, I resided at
100 (residence address) in (town, township, village or city)
101 of county in the state of

102 (2) I moved to this election jurisdiction after the last day to register to vote in such
103 election;

104 (3) I believe I am entitled pursuant to the laws of this state to vote in the election to be
105 held (date);

106 (4) I hereby make application for an absentee ballot for candidates and issues on which
107 I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other
108 than by this ballot at such election.

109 Signed

110 (Applicant)

111

112 (Residence Address)

113 Subscribed and sworn to before me this day of,

114 Signed

115 (Title and name of officer authorized to administer oaths)"

116 9. An application for an absentee ballot by an interstate former resident[, as defined in
117 section 115.275,] shall be received in the office of the election authority where the applicant was
118 formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the
119 application is made in person by the applicant in the office of the election authority, in which
120 case such application shall be made no later than 7:00 p.m. on the day of the election.

115.283. 1. Each ballot envelope shall bear a statement on which the voter shall state
2 the voter's name, the voter's voting address, **and** the voter's mailing address [and the voter's
3 reason for voting an absentee ballot]. On the form, the voter shall also state under penalties of
4 perjury that the voter is qualified to vote in the election, that the voter has not previously voted
5 and will not vote again in the election, that the voter has personally marked the voter's ballot in
6 secret or supervised the marking of the voter's ballot if the voter is unable to mark it, that the
7 ballot has been placed in the ballot envelope and sealed by the voter or under the voter's
8 supervision if the voter is unable to seal it, and that all information contained in the statement
9 is true. In addition, any person providing assistance to the absentee voter shall include a
10 statement on the envelope identifying the person providing assistance under penalties of perjury.

11 Persons authorized to vote only for federal and statewide officers shall also state their former
12 Missouri residence.

13 2. The statement for persons voting absentee ballots who are registered voters shall be
14 in substantially the following form:

15
16 State of Missouri
17 County (City) of

18
19 I, (print name), a registered voter of County (City of St. Louis, Kansas
20 City), declare under the penalties of perjury [that I expect to be prevented from going to the polls
21 on election day due to (check one):

- 22
- 23 absence on election day from the jurisdiction of the election authority in which I am
- 24 registered;
- 25 incapacity or confinement due to illness or physical disability, including caring for a
- 26 person who is incapacitated or confined due to illness or disability;
- 27 religious belief or practice;
- 28 employment as an election authority or by an election authority at a location other than
- 29 my polling place;
- 30 incarceration, although I have retained all the necessary qualifications for voting.

31
32 I hereby state under penalties of perjury] that I am qualified to vote at this election; I have not
33 voted and will not vote other than by this ballot at this election. I further state that I marked the
34 enclosed ballot in secret or that I am blind, unable to read or write English, or physically
35 incapable of marking the ballot, and the person of my choosing indicated below marked the
36 ballot at my direction; all of the information on this statement is, to the best of my knowledge
37 and belief, true.

38	
39 .....	.....
40 Signature of Voter	Signature of Person
41	Assisting Voter
42	(if applicable)
43	
44 Signed	Subscribed and sworn to
45 Signed	before me this day
46 Address of Voter	of,

47	.....	.....
48	.....	.....
49	Mailing addresses	Signature of notary or
50	(if different)	other officer authorized
51		to administer oaths

52 3. The statement for persons voting absentee ballots pursuant to the provisions of
53 subsection 2, 3, 4, or 5 of section 115.277 without being registered shall be in substantially the
54 following form:

55
56 State of Missouri
57 County (City) of

58
59 I, (print name), declare under the penalties of perjury that I am a citizen of the
60 United States and eighteen years of age or older. I am not adjudged incapacitated by any court
61 of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of
62 suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to
63 law. I hereby state under penalties of perjury that I am qualified to vote at this election.

64 I am (check one):
65
66 a resident of the state of Missouri and a registered voter in County and moved
67 from that county to County, Missouri, after the last day to register to vote in
68 this election.
69 an interstate former resident of Missouri and authorized to vote for presidential and vice
70 presidential electors.

71
72 I further state under penalties of perjury that I have not voted and will not vote other than by this
73 ballot at this election; I marked the enclosed ballot in secret or am blind, unable to read or write
74 English, or physically incapable of marking the ballot, and the person of my choosing indicated
75 below marked the ballot at my direction; all of the information on this statement is, to the best
76 of my knowledge and belief, true.

77		
78	.....	Subscribed to and sworn
79	Signature of Voter	before me this day
80		of,
81	.....
82	.....	.....

83	Address of Voter	Signature of notary or
84		other officer authorized
85		to administer oaths
86	.....	.....
87	Mailing Address (if different)	.....
88		.....
89	.....	.....
90	Signature of Person	Address of Last
91	Assisting Voter	Missouri Residence
92		(if applicable)

93 4. The statement for persons voting absentee ballots who are entitled to vote at the
 94 election pursuant to the provisions of subsection 2 of section 115.137 shall be in substantially
 95 the following form:

96
 97 State of Missouri
 98 County (City) of

99
 100 I, (print name), declare under the penalties of perjury [that I expect to
 101 be prevented from going to the polls on election day due to (check one):

- 102
- 103 absence on election day from the jurisdiction of the election authority in which I am
 - 104 directed to vote;
 - 105 incapacity or confinement due to illness or physical disability, including caring for a
 - 106 person who is incapacitated or confined due to illness or disability;
 - 107 religious belief or practice;
 - 108 employment as an election authority or by an election authority at a location other than
 - 109 my polling place;
 - 110 incarceration, although I have retained all the necessary qualifications of voting.

111
 112 I hereby state under penalties of perjury] that I own property in the district and am
 113 qualified to vote at this election; I have not voted and will not vote other than by this ballot at
 114 this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable
 115 to read and write English, or physically incapable of marking the ballot, and the person of my
 116 choosing indicated below marked the ballot at my direction; all of the information on this
 117 statement is, to the best of my knowledge and belief, true.

118

119 Subscribed and sworn
 120 Signature of Voter to before me this
 121 day of,
 122
 123
 124 Address Signature of notary or
 125 other officer authorized
 126 to administer oaths
 127
 128 Signature of Person
 129 Assisting Voter
 130 (if applicable)

131 5. The statement for persons providing assistance to absentee voters shall be in
 132 substantially the following form:

133
 134 The voter needed assistance in marking the ballot and signing above, because of blindness, other
 135 physical disability, or inability to read or to read English. I marked the ballot enclosed in this
 136 envelope at the voter's direction, when I was alone with the voter, and I had no other
 137 communication with the voter as to how he or she was to vote. The voter swore or affirmed the
 138 voter affidavit above and I then signed the voter's name and completed the other voter
 139 information above. Signed under the penalties of perjury.

140
 141 Reason why voter needed assistance:

142
 143 ASSISTING PERSON SIGN HERE

- 144 1. (signature of assisting person)
- 145 2. (assisting person's name printed)
- 146 3. (assisting person's residence)
- 147 4. (assisting person's home city or town).

148 6. Notwithstanding any other provision of this section, any covered voter as defined in
 149 section 115.902 or persons who have declared themselves to be permanently disabled pursuant
 150 to section 115.284, otherwise entitled to vote, shall not be required to obtain a notary seal or
 151 signature on his or her absentee ballot.

152 7. Notwithstanding any other provision of this section or section 115.291 to the contrary,
 153 the subscription, signature and seal of a notary or other officer authorized to administer oaths
 154 shall not be required on any ballot, ballot envelope, or statement required by this section if the

155 [reason for the] voter voting absentee is [due to the reasons established pursuant to subdivision
156 (2) of subsection 1 of section 115.277] **incapacitated or confined due to illness or physical**
157 **disability, including a person who is primarily responsible for the physical care of a person**
158 **who is incapacitated or confined due to illness or disability.**

159 8. No notary shall charge or collect a fee for notarizing the signature on any absentee
160 ballot or absentee voter registration.

161 9. A notary public who charges more than the maximum fee specified or who charges
162 or collects a fee for notarizing the signature on any absentee ballot or absentee voter registration
163 is guilty of official misconduct.

✓