

CHAPTER 79**(HB 479)**

AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, **by electronic mail**, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter, the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under subparagraph 6. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which **the voter** is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his **or her** application.
 - (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
 1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only; and
 6. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
 - (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his **or her** seal to the application form upon receipt.
 - (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.

- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (f) Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (g) Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter, may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (h) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (i) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he *or she* is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he *or she* is registered receives his *or her* appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
- (j) Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application to vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.
- (k) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county

board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

- (l) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
 - (m) Residents of Kentucky who are members of the Armed Forces confined to a military base on election day and learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under subsection (1) of this section may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
 - (3) If the county clerk finds that the voter is properly registered as stated in his *or her* application and qualifies to receive an absentee ballot by mail, he *or she* shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
 - (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
 - (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and fifteen (15) days prior to each runoff primary.
 - (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
 - (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he *or she* will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his *or her* absentee ballot and vote in person. **The voter**~~He~~ shall return ~~the~~~~his~~ absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so

marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he *or she* is properly registered.

- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) *Any member of the military who has received an absentee ballot by mail but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office on or before election day. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.*

➔Section 2. KRS 117.165 is amended to read as follows:

- (1) Upon completing the preparation of the machines in accordance with the provisions of KRS 117.155, and not later than the Thursday preceding the day of the election, the county clerk shall notify the members of the county board of elections that the machines are ready for use. The board shall thereupon convene at the office of the county clerk, not later than the Friday preceding the day of the election, and examine the machines to determine whether the requirements of KRS 117.155 have been met. The county board of elections shall publish notice, in accordance with KRS 424.130(1)(d), at least twenty-four (24) hours in advance of the time when the machines are to be examined by the board. If found in proper order, the members of the county board of elections shall endorse their approval in the book in which the county clerk has entered the numbers of the machines opposite the numbers of the precincts. The clerk shall then deliver all of the keys to the machines to the county board of elections who shall give a receipt for the keys which shall contain identification of the keys. Not later than one (1) hour before the time set for the opening of the polls, the board shall deliver all election supplies including the precinct list, tabulation sheets, and the key to the device covering the registering counters and other keys necessary for the operation of the machine in registering votes, to the election officers of the precinct in which the machine is being used, who shall give the board a receipt containing identification of the keys. The master key and all other keys shall remain in the possession of the county board of elections.
- (2) *Not later than four (4) business days preceding the date set by the county board of elections to conduct absentee voting in accordance with KRS 117.085(1)(c), the county clerk shall notify the members of the county board of elections that the voting machines designated for use during absentee voting are ready for use. The board shall thereupon convene at the office of the county clerk, not later than three (3) business days preceding the date set by the county board of elections to conduct absentee voting, and examine the machines to determine whether the requirements of KRS 117.155 have been met. The county board of elections shall publish notice, in accordance with KRS 424.130(1)(d), at least twenty-four (24) hours in advance of the time when the absentee voting machines are to be examined by the board. If found in proper order, the members of the county board of elections shall endorse their approval in the book in which the county clerk has entered the identification number of the machines designated for use during absentee voting.*
- (3) Any candidate, one (1) representative of each political party having candidates to be voted for at the election, and representatives of the news media may be present when the examination of the machines is made by the county board of elections.

➔Section 3. KRS 117.235 is amended to read as follows:

- (1) No person, other than the election officers, challengers, *person assisting voters in accordance with KRS 117.255(3)*, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except *as follows*:
- (a) For the purpose of voting;

- (b) ~~for except~~ By authority of the election officers to keep order and enforce the law; ~~or~~
 - (c) **With the express approval of the county board of elections to repair or replace voting equipment that is malfunctioning and to provide additional voting equipment; or**
 - (d) At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.
- (2) No officer of election shall do any electioneering on election day.
 - (3) No person shall electioneer at the polling place on the day of any election, as established in KRS 118.025, within a distance of three hundred (300) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county, charter county, or consolidated local government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than three hundred (300) feet from the polling place. No person shall electioneer within the interior of a building or affix any electioneering materials to the exterior or interior of a building where the county clerk's office is located, or any building designated by the county board of elections and approved by the State Board of Elections for absentee voting, during the hours absentee voting is being conducted in the building by the county clerk pursuant to KRS 117.085(1)(c). Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question, but shall not include exit polling or other exceptions established by the State Board of Elections through *the promulgation of* administrative regulations.
 - (4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.
 - (5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within three hundred (300) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.
 - (6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any ~~regular~~ primary, or **regular or** special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

➔Section 4. KRS 117.265 is amended to read as follows:

- (1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate **for any office**, by writing the name of his **or her** choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary ~~election~~ shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his **or her** choice under the office.
- (2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, **on or before the fourth Friday in October preceding the date of the regular election and** not less than ten (10) days preceding the date of a ~~the regular or~~ special election. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. The declaration of intent shall be on a form prescribed by the Secretary of State.
- (3) A person shall **not be eligible** ~~ineligible~~ as a write-in candidate:
 - (a) For more than one (1) office in a regular or special election; **or**

(b) *If his or her name appears upon the ballot label as a candidate for any office, except that the candidate may file a notice of withdrawal prior to filing an intent to be a write-in candidate for office when a vacancy in a different office occurs because of:*

1. *Death;*
2. *Disqualification to hold the office sought;*
3. *Severe disabling condition which arose after the nomination; or*
4. *The nomination of an unopposed candidate.*

- (4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State *on or before the fourth Friday in October* ~~[not less than ten (10) days]~~ preceding the date of the regular election for those offices. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.
- (5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.
- (6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

➔Section 5. KRS 117.275 is amended to read as follows:

- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:
 - (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names ~~[, lever numbers,]~~ and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted.

During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

- (4) If any officer shall decline to sign the return, he *or she* shall state ~~the~~^{his} reason in writing, and a copy thereof, signed by ~~the officer~~^{him}, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his *or her* name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.
- (5) In ~~primaries~~^{primary elections} at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making ~~the~~^{his} determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of ~~the~~^{his} determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.
- (6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.
- (7) In ~~primaries~~^{primary elections}, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, *nonpartisan candidate*, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to ~~witness the vote count~~^{observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election}.
- (8) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after

which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

➔ Section 6. KRS 117.315 is amended to read as follows:

- (1) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district, and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the ~~chair~~~~chairman~~ or secretary of the party committee of the county ***on or before the third Friday in April preceding the primary***~~[not less than thirty (30) days before the date on which the primary is to be held]~~, and the committee or the chairman thereof shall make the appointments, certify to same, and present a list of certified challengers to the county clerk at least twenty (20) days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section. The challengers shall be registered voters of the county in which the primary is held and shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the ~~chair~~~~chairman~~ of the political party committees by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.
- (2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the Court of Justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. A candidate who designates a challenger shall present the county clerk with the name of the challenger at least twenty (20) days preceding the primary or regular election. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the ~~chair~~~~chairman~~ of the committee, independent candidate, or candidates representing a ticket, and shall produce written appointment on demand of any election officer.
- (3) The county executive committee of any political party having a ticket to elect at any regular election may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the ~~chair~~~~chairman~~ of the committee, and shall produce written appointments on demand of any election officer. The committee or ~~chair~~~~chairman~~ shall present the county clerk with a list of designated challengers at least twenty (20) days preceding a regular election.
- (4) Except as provided in KRS Chapter 242, not later than the fourth Tuesday preceding an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested, to each committee not less than the third Tuesday preceding the election, which committee is entitled to nominate the challengers and inspectors. The decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of the committees shall be recognized as the one to select inspectors and challengers at the election.
- (5) The committee shall file the names of the persons nominated by it with the clerk of the county at least twenty (20) days before the election. The county board of elections shall, not later than the Thursday preceding the election, certify the nominees of the committee for the respective precincts to serve as challengers and

inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

- (6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

➔Section 7. KRS 117.995 is amended to read as follows:

- (1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.
- (2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.
- (3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his *or her* vote on the machine as required of ~~the voter~~ ~~him~~ by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (5) Any person who signs a name other than his *or her* own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his *or her* name, or any person who applies for the ballot for the use of anyone other than himself *or herself* or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.
- (6) Any person who violates any provision of KRS 117.235 *or 117.236* related to prohibited activities *during absentee voting or* on election day, after he *or she* has been duly notified of the provisions by any precinct election officer, county clerk, deputy county clerk, or other law enforcement official, shall, for each offense, be guilty of a Class A misdemeanor.
- (7) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate or incomplete voter assistance form or fails to complete a voter assistance form when required shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.
- (8) The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.

➔Section 8. KRS 118.425 is amended to read as follows:

- (1) The State Board of Elections shall issue certificates of election where the successful candidate was voted for by the state at large, was voted for by a district greater than one (1) county, or was a candidate for member of Congress or the General Assembly.
- (2) ***Except as provided in subsection (3) of this section, not later than the second Monday after the election,*** the county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of Congress, members of the General Assembly, and designated officers filing with the *Secretary of State* ~~Board of Elections~~. ***The right to contest or recount an election in accordance with KRS Chapter 120 shall not be impaired.*** The county board of elections of the candidate's residence shall issue certificates of election where the successful candidate was voted for by the electors of a city whose boundaries extend beyond those of a single county. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates

have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

- (3) *In counties containing cities of the first class, not later than the thirtieth day of December after the election, the county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of the county, except members of Congress, members of the General Assembly, and designated officers filing with the Secretary of State. The right to contest or recount an election in accordance with KRS Chapter 120 shall not be impaired. The county board of elections of the candidate's residence shall issue certificates of election where the successful candidate was voted for by the electors of a city whose boundaries extend beyond those of a single county. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.*
- (4) In the case of all offices voted for, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for the office and the total number of votes for and against each of the questions *on a form prescribed by the State Board of Elections through the promulgation of administrative regulations in accordance with KRS Chapter 13A. The certificate of the total number of votes shall be certified to the Secretary of State's Office not later than 12 p.m., prevailing time, on the Friday following the election. For special elections the certificate of the total number of votes shall be certified to the Secretary of State's Office not later than 12 p.m., prevailing time, on the day following the election.* The clerk shall keep one (1) of the certificates in his *or her* office. He *or she* shall not later than three (3) days after receiving the certificate from the board, forward the other certificate by mail to the Secretary of State who shall deliver it to the State Board of Elections.
- (5)~~(4)~~ The State Board of Elections shall meet, to count and tabulate the votes received by the different candidates as certified to the Secretary of State~~, when the returns are all in, or~~ on the third Monday after the election.~~[whether they are in or not, but if all the returns are not made,]~~ The right to contest *or recount* an election *in accordance with KRS Chapter 120* shall not be impaired. A majority of the members of the board shall constitute a quorum and may act. The board shall make out the certificates of election in the office of the board from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate. The duplicate shall be retained in the office of the board. In the case of the election of a representative in Congress, an additional certificate shall be made and sent, by mail, to the clerk of the House of Representatives.
- (6)~~(5)~~ The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in the manner the board directs, in the presence of not less than three (3) other persons. In the case of elections for electors of President and Vice President of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for President and Vice President received the highest number of votes and the determination by the board that the candidates of any political party or organization for President and Vice President have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

➔Section 9. KRS 119.056 is amended to read as follows:

Any person in possession of nomination papers *for attaining ballot access* entitled to be filed under the statutes relating to *primaries, regular and special*~~primary~~ elections who wrongfully alters, mutilates or suppresses such papers, or wrongfully fails to cause them to be filed at the proper time in the proper office, shall be guilty of a Class A misdemeanor.

➔Section 10. KRS 118.125 is amended to read as follows:

- (1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary~~election~~ for the candidates for nomination by the party at whose hands he *or she* seeks the nomination, shall have his *or her* name printed on the official ballot of his *or her* party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

- (2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.***

- (a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

"For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ----- Party, I, ----- (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; that I believe in the principles of the ----- Party, and intend to support its principles and policies; that I meet all the statutory and constitutional qualifications for the office which I am seeking; that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate and by the two (2) voters making the declaration and signing the candidate's petition for office.

- (b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ----- Party, I, -----, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; and I, -----, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; that we believe in the principles of the ----- Party, and intend to support its principles and policies; that we meet all the statutory and constitutional qualifications for the offices which we are seeking; that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate and by the two (2) voters making the declaration and signing the petition for office.

- (3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.
- (4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

➔Section 11. KRS 118.165 is amended to read as follows:

- (1) Except as provided in KRS Chapters 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of

Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary ~~election~~. **Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.** All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers may be filed.

- (2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

➔Section 12. KRS 118.227 is amended to read as follows:

- (1) If a vacancy occurs in a slate of candidates before the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the **deadline for filing the notification and declaration**~~[slate formed a campaign committee]~~, the remaining member of the slate may:

- (a) Designate a replacement for the vacant candidate; or
 (b) Change the composition of the slate and designate a running mate.

Any changes made to the slate of candidates as set forth in this subsection shall be made on forms **prescribed by the State Board of Elections and** filed with the **Secretary of State**~~[registry]~~ not later than the deadline for printing primary election ballots, but only following certification to the remaining candidates by the Secretary of State that a vacancy exists for a reason specified in this subsection. **The Secretary of State shall immediately certify any changes made to a slate of candidates to the appropriate county clerk, the Registry of Election Finance, and the State Board of Elections.**

- (2) If a vacancy occurs in a slate of candidates after the ballots are printed for the primary ~~election~~, the remaining member of the slate may:

- (a) Designate a replacement for the vacant candidate; or
 (b) Change the composition of the slate and designate a running mate.

Any changes made to the slate of candidates as set forth in this subsection shall be made on forms **prescribed by the State Board of Elections and** filed with the **Secretary of State** filed with the registry prior to the primary election, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in subsection (1) of this section. **The Secretary of State shall immediately certify any changes made to a slate of candidates to the appropriate county clerk, the Registry of Election Finance, and the State Board of Elections.**

- (3) If a replacement for a vacant candidate is made after the ballots are printed for the primary ~~election~~ because of death, disqualification to hold the office sought, or severe disabling condition which arose after the **deadline for filing the notification and declaration**~~[slate formed a campaign committee]~~, notices informing the voters of the change in the composition of the slate shall be **printed by the State Board of Elections and sent to the appropriate county clerk to be** posted at each precinct polling place. **Any votes cast prior to any changes made to the composition of a slate shall be counted as votes cast for the new slate composition.**

- (4) The provisions of KRS 118.105 shall apply to vacancies occurring in the nomination of a qualifying slate of candidates.

➔Section 13. KRS 118.315 is amended to read as follows:

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him or her, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for

candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office, excluding President of the United States in accordance with KRS 118.591(1), shall not be **affixed on the document to be filed**~~solicited~~ prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. **Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer or board of education member, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include the date he or she affixes the signature, address of residence, and date of birth. Failure of a voter to include the signature affixation date, date of birth, and address of residence shall result in the signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he or she shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his or her signature is affixed.
- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.
- (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

➔Section 14. KRS 118.601 is amended to read as follows:

- (1) The Secretary of State shall contact each person who has been nominated by petition, or who has been nominated pursuant to KRS 118.591(5) and (6), and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party.
- (2) The order in which the names of candidates for a presidential preference primary are to be printed on the ballot shall be determined by lot at a public drawing in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the presidential preference primary.
- (3) Not later than the **date set forth in KRS 118.215(1)(a)**~~third Tuesday in February~~ preceding the presidential preference primary, and after the order of the names has been determined as provided by subsection (2) of this section, the Secretary of State shall certify to each county clerk the name, place of residence, and party of each candidate, as specified in the notice of candidacy forms or petitions filed with him and shall designate the device with which the candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes.

➔Section 15. KRS 118A.060 is amended to read as follows:

- (1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.
- (2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election for the office. The petition shall be sworn to before an officer authorized to administer an

oath by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

- (3) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election for the office. The petition shall be sworn to before an officer authorized to administer an oath by the candidate and by not less than two (2) registered voters from the district or circuit from which he *or she* seeks nomination. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.
- (4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary election.
- (5) Not later than the ***date set forth in KRS 118.215(1)(a)***~~[third Tuesday in February]~~ preceding the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:
 - (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and
 - (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.
- (6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the ***Secretary of State***~~[county clerk]~~.
- (7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.
- (8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.
- (9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.
- (10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in ***the Secretary's***~~[his]~~ office certificates of nomination, and send copies to the candidates.

➔Section 16. KRS 118A.090 is amended to read as follows:

- (1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.
- (2) Not later than the ***date set forth in KRS 118.215(1)(c)***~~[second Monday]~~ after the filing deadline for the regular election in a year in which there is no election for President and Vice President of the United States, or not

later than the *date set forth in KRS 118.215(1)(d)* [~~Thursday after the first Tuesday in September~~] preceding a regular election in a year in which there is an election for President and Vice President of the United States, and after the order of names on the ballot has been determined as required in subsection (1) of this section, the Secretary of State shall:

- (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and
 - (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.
- (3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the **Secretary of State** [~~county clerk~~]. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.
 - (4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.
 - (5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

➔Section 17. KRS 83A.040 is amended to read as follows:

- (1) A mayor shall be elected by the voters of each city at a regular election. A candidate for mayor shall be a resident of the city for not less than one (1) year prior to his or her election. His term of office shall begin on the first day of January following his election and shall be for four (4) years and until his successor qualifies. If a person is elected or appointed as mayor in response to a vacancy and serves less than four (4) calendar years, then that period of service shall not be considered for purposes of re-election a term of office. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.
- (2) If a vacancy occurs in the office of mayor, the following provisions shall apply:
 - (a) The legislative body of the city shall fill the vacancy within thirty (30) days.
 - (b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself.
 - (c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself.
 - (d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.
- (3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his successor.
- (4) Each legislative body member shall be elected at large by the voters of each city at a regular election. A candidate for a legislative body shall be a resident of the city for not less than one (1) year prior to his or her election. His term of office shall begin on the first day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.
- (5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new

appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

- (6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.
- (7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. The resignation shall be effective at the next regular *or special* meeting of the city legislative body *occurring after the date specified in the written letter of resignation*.
- (8) Pursuant to KRS 118.305(7), if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the Governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the Secretary of State of the vacancy.
- (9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the Circuit Court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.
- (10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.

➔Section 18. KRS 83A.045 is amended to read as follows:

- (1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:
 - (a) A candidate for party nomination to city office shall file his *or her* nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for the office sought. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
 - (b) An independent candidate for nomination to city office shall not participate in a primary ~~election~~, but shall file his *or her* nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
 - (c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he *or she* was an unsuccessful candidate in the primary ~~election~~, his *or her* name may be placed on the voting machines for the regular election as a candidate of that party if he *or she* has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.
- (2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

- (a) A candidate for city office shall file his *or her* nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary ~~election~~ for nominations for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
- (b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:
1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.***
 2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
 3. If a city does not conduct a primary ~~election~~ pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.
 4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.
 5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.
 6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.
- (c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

➔Section 19. KRS 83A.165 is amended to read as follows:

- (1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, 118.375, and 83A.047.
- (2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.
- (3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:
 - (a) Vacancies in candidacy shall be governed by KRS 118.105;
 - (b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and
 - (c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.
- (4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:

- (a) If the vacancy occurs not less than one hundred thirty-four (134) days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170; and
- (b) If the vacancy occurs on or after the one hundred thirty-fourth day before a May primary *or at a time after the primary*, the election to fill the unexpired term shall be held *without a primary* in the manner prescribed in Section 152 of the Kentucky Constitution. *Petitions of nomination for candidates to fill the vacancy shall be filed at the time and place prescribed in KRS 118.365*; and
- (c) Vacancies in candidacy in any city of the fourth to sixth class, that has not conducted a nonpartisan primary election shall be governed by the provisions of KRS 83A.045(2)(b)6.

➔Section 20. KRS 83A.170 is amended to read as follows:

- (1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.
- (2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary ~~election~~ to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan *primaries*~~primary elections~~ shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.
- (3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he *or she* is authorized, he *or she* shall be counted as a petitioner for the candidate whose petition is filed first.
- (4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.
- (6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.
- (7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (8) If, before the *time of certification of candidates who will appear on the ballot*~~ballots are printed~~, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he *or she* will not accept the nomination, the clerk shall not cause *the candidate's*~~his~~ name to be printed on the ballot.
- (9) If, after the *certification of candidates who will appear on the ballot*~~ballots are printed~~, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:
 - (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;
 - (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least

five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;

- (c) In a primary~~[-election]~~, if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates.
- (10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.
- (11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary~~[-election]~~ and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary~~[-election]~~.
- (12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.
- (13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled. If two (2) candidates are tied for the second highest number of votes in a mayoral election, the names of those two (2) candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot.
- (14) At the regular election following a nonpartisan primary~~[-election]~~, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.
- (15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.
- (16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

➔Section 21. KRS 83A.175 is amended to read as follows:

- (1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary~~[-election]~~ pursuant to KRS 83A.045.
- (2) Each candidate shall, not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing petitions of nomination with the county clerk as provided in KRS 83A.047, file a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he *or she* is authorized, he *or she* shall be counted as a petitioner for the candidate whose petition is filed first.
- (3) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

- (5) If, before the *certification of candidates who will appear on the ballot*~~{ballots are printed}~~, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he *or she* will not accept the election, the clerk shall not cause his *or her* name to be printed on the ballot.
- (6) If, after the *certification of candidates who will appear on the ballot*~~{ballots are printed}~~, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:
- (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;
 - (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;
 - (c) If there is only one (1) remaining candidate on the ballot for that office in a primary~~{election}~~, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate, and the officer with whom the remaining candidate has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate and send a copy to the remaining candidate.

Signed by Governor April 11, 2008.