

CHAPTER 112

(HB 325)

AN ACT relating to elections.

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

➔Section 1. KRS 116.055 is amended to read as follows:

- (1) Before a person shall be qualified to vote in a primary~~[election]~~, he *or she*:
 - (a) Shall possess all the qualifications required of voters in a regular election;~~[In addition, he]~~
 - (b) Shall *have been*~~[be]~~ a registered member of the party in whose primary~~[election]~~ he *or she* seeks to vote~~[, and shall have been registered as a member of that party]~~ on December 31 immediately preceding the primary; *and* ~~[election, or, in the case of new registrations made after December 31 immediately preceding the primary election, he shall have registered and]~~
 - (c) *Shall have* remained *continuously* registered as a member of that party *in whose primary he or she seeks to vote between December 31 immediately preceding the primary and the date set for the primary.*
- (2) *In the case of a new registration made after December 31 immediately preceding the primary, a voter shall have registered and remained continuously registered as a member of the party in whose primary he or she seeks to vote from the date of registration until the date set for the primary.*
- (3) *Any voter who withdraws his or her registration after December 31 immediately preceding the primary, and reregisters as a voter with a different party affiliation, during those periods that the registration books are open immediately preceding the primary, shall not be eligible to vote in the upcoming primary.*
- (4) No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he *or she* is a registered member.
- (5) The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party, political organization, political group, or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races.

➔Section 2. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for a mail-in absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. The county clerk shall transmit all applications for a mail-in absentee ballot~~[by mail]~~ to the voter *by mail, electronic mail*, or in person at the option of the voter, except as provided in paragraph (b) of this subsection. The mail-in absentee ballot application may be requested by the voter or 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, those who are uniformed service voters as defined in KRS 117A.010 that are confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, mail in absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. The county clerk shall provide a mail in absentee ballot, two (2) official envelopes for returning the mail in absentee ballot, and instructions for voting to a voter who presents a completed application for mail in absentee ballot as provided in this section and who is properly registered as stated in his or her mail in absentee ballot application.]~~
 - (a) A qualified voter may apply to cast his or her vote by mail-in absentee ballot if the *completed* application is received not later than the close of business hours seven (7) days before the election, and if the voter is:
 1. ~~[Permitted to vote by a mail in absentee ballot pursuant to KRS 117.075;~~
 - 2.] A resident of Kentucky who is a covered voter as defined in KRS 117A.010;

ACTS OF THE GENERAL ASSEMBLY

- 2.~~3.~~ A student who temporarily resides outside the county of his or her residence;
- 3.~~4.~~ Incarcerated in jail and charged with a crime, but has not been convicted of the crime;
- 4.~~5.~~ Changing or has changed his or her 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, in which case the voter shall be permitted to cast a mail-in absentee ballot for electors for President and Vice President of the United States only;
- 5.~~6.~~ Temporarily residing outside the state but still eligible to vote in this state;
- 6.~~7.~~ Prevented from voting in person at the polls on election day and from casting an in-person absentee ballot in the county clerk's office on all days in-person absentee voting is conducted because his or her employment location requires him or her to be absent from the county of his or her residence all hours and all days in-person absentee voting is conducted in the county clerk's office;~~or~~
- 7.~~8.~~ A participant in the Secretary of State's crime victim address confidentiality protection program as authorized by KRS 14.312; *or*
8. ***Not able to appear at the polls on election day on the account of age, disability, or illness, and who has not been declared mentally disabled by a court of competent jurisdiction.***
- (b) Residents of Kentucky who are covered voters as defined in KRS 117A.010 may apply for a mail-in absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail, by facsimile machine, or by means of the electronic transmission system established under KRS 117A.030(4). The federal post-card application may be used to register, reregister, and to apply for a mail-in 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) In-person 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 in-person 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 of his or her residence who is not permitted to vote by a mail-in absentee ballot under paragraph (a) of this subsection who will be absent from the county of his or her residence on any election day may, at any time during normal business hours on those days in person absentee voting is conducted in the county clerk's office, make application in person to the county clerk to cast an in person absentee 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)~~ A qualified voter may, at any time during normal business hours on those days in-person 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, if the voter:
1. Is a resident of Kentucky who is a covered voter as defined in KRS 117A.010, who will be absent from the county of his or her residence on any election day;
 2. Is a student who temporarily resides outside the county of his or her residence;
 3. Has surgery, or whose spouse has surgery, scheduled that will require hospitalization on election day;
 4. Temporarily resides outside the state, but is still eligible to vote in this state and will be absent from the county of his or her residence on any election day;
 5. Is a resident of Kentucky who is a uniformed-service voter as defined in KRS 117A.010 confined to a military base on election day, learns of that confinement within seven (7) days or less of an election, and is not eligible for a mail-in absentee ballot under this subsection;
 6. Is in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph 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;~~{-e-}~~

7. Has not been declared mentally disabled by a court of competent jurisdiction and, on account of age, disability, or illness, is not able to appear at the polls on election day; *or*
8. ***Is not permitted to vote by a mail-in absentee ballot under paragraph (a) of this subsection, but who will be absent from the county of his or her residence on election day.***

~~(e){(f)}~~ 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 in-person 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, up to the close of normal business hours on the day before the election.

~~(f){(g)}~~ 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 in-person absentee voting is being conducted in the county, the 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. Precinct election officers' verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

~~(g){(h)}~~ 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 in-person 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 in-person 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 in-person absentee voting, the county clerk or deputy county clerks shall supervise the in-person absentee voting.

~~(h){(i)}~~ Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all in-person 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.

- (2) The county clerk shall type the name of the voter permitted to vote by mail-in absentee ballot on the mail-in absentee ballot application form for that person's use and no other. The mail-in 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 a mail-in absentee ballot. The mail-in absentee ballot application 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 mail-in absentee ballot application form.
- (3) If the county clerk finds that the voter is properly registered as stated in his or her mail-in absentee ballot application form and qualifies to receive a mail-in absentee ballot by mail, he or she shall mail to the voter a mail-in absentee ballot, two (2) official envelopes for returning the mail-in absentee ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for mail-in absentee ballots

mailed within the fifty (50) states, and it shall be stamped by the postal service when the mail-in absentee ballots are mailed. A mail-in absentee ballot may be transmitted by facsimile machine or by the electronic transmission system established under KRS 117A.030(4) to a covered voter as defined in KRS 117A.010. The covered voter shall be notified of the options for transmittal of the mail-in absentee ballot, and the mail-in absentee ballot shall be transmitted by the method chosen for receipt by the resident of Kentucky who is a covered voter.

- (4) Mail-in absentee ballots which are requested prior to the printing of the mail-in absentee ballots shall be mailed or otherwise transmitted as provided in subsection (3) of this section by the county clerk to the voter within three (3) days of the receipt of the printed ballots. Mail-in absentee ballots requested after the receipt of the ballots by the county clerk shall be mailed or otherwise transmitted as provided in subsection (3) of this section to the voter within three (3) days of the receipt of the request.
- (5) The county clerk shall cause mail-in absentee ballots to be printed fifty (50) days prior to each primary or regular election, and forty-five (45) days prior to a special election.
- (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 county 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 county clerk shall retain the mail-in ballot application form 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 a mail-in 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 his or her county of residence on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her mail-in absentee ballot and vote in person. The voter shall return the mail-in 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 mail-in absentee ballot, the county 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 county clerk shall remove the voter's name from the list of persons who were sent mail-in 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 absentee ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second mail-in absentee ballot. The county clerk shall keep a record of the mail-in absentee ballots issued and returned by mail, and the in-person 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 county clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) Any covered voter as defined in KRS 117A.010 who has received a mail-in absentee ballot 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 mail-in absentee ballot and vote in person. The voter shall return the mail-in absentee ballot to the county clerk's office on or before election day. Upon the return of the mail-in absentee ballot, the county clerk shall mark on the outer envelope of the sealed mail-in absentee ballot or the unmarked mail-in absentee ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. If the covered voter is unable to return the mail-in absentee ballot to the county clerk's office on or before election day, at the time he or she votes in person, he or she shall sign a written oath as to his or her qualifications on the form prescribed by the State Board of Elections pursuant to KRS 117.245. The county clerk shall remove the voter's name from the list of persons who were sent mail-in 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.
- (10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, the information contained in an application for a mail-in absentee ballot shall not be made public until after the close of business hours on the election day for which the application applies. This subsection shall not prohibit at any time the disclosure, upon request, of the total number of applications for mail-in absentee ballots that have

been filed, or the disclosure to the Secretary of State or the State Board of Elections, if requested or if otherwise required by law, of any information in an application for a mail-in absentee ballot.

➔Section 3. KRS 116.065 is amended to read as follows:

Each application for registration, change of affiliation, transfer of registration or absentee ballot, as absentee ballots are provided for by *Section 2 of this Act* ~~KRS 117.075~~, shall be verified by a written declaration by the applicant that it is made under the penalties of perjury.

➔Section 4. KRS 117.0851 is amended to read as follows:

Absentee ballots cast, as provided by KRS ~~{117.075,} 117.077{,}~~ and 117.085~~{,}~~ shall all be tabulated in the same manner, as shall be provided by this chapter.

➔Section 5. KRS 117.088 is amended to read as follows:

- (1) For purposes of this section, "blind or visually impaired individual" means an individual who:
 - (a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;
 - (b) Has a medically indicated expectation of visual deterioration;
 - (c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;
 - (d) Has been certified as requiring permanent assistance to vote under KRS 117.255(5) for reason of blindness; or
 - (e) Qualifies to receive assistance to vote under KRS 117.255(2) for reason of blindness.
- (2) For purposes of this section, "pilot program" means a program in a county containing a consolidated local government or containing a city of the first class for unassisted voting by blind or visually impaired individuals.
- (3) A county board of elections in a county containing a consolidated local government or containing a city of the first class may establish a pilot program. As part of this pilot program, the State Board of Elections shall approve the use of voting equipment under KRS 117.379 that is designed to permit blind and visually impaired individuals to vote without assistance, for use beginning in the 2002 general election. No county board of elections in a county containing a consolidated local government or containing a city of the first class shall be required to operate a pilot program.
- (4) The State Board of Elections, if it approves the voting equipment under KRS 117.379, may approve the use of voting equipment designed to permit blind and visually impaired individuals to vote without assistance in as many locations within a county containing a consolidated local government or containing a city of the first class as are designated by the county board of elections.
- (5) A county board of elections in a county containing a consolidated local government or containing a city of the first class shall provide a report to the State Board of Elections after every primary or general election regarding the number of blind or visually impaired individuals that have utilized the voting equipment during the pilot program.
- (6) Notwithstanding the provisions of KRS 116.025, or any other statute to the contrary, a blind or visually impaired voter residing in a county containing a consolidated local government or containing a city of the first class that is operating a pilot program shall be permitted to vote at a location outside the precinct of his or her registration by voting at a location within the county of his or her registration on a voting machine designed to permit blind or visually impaired individuals to vote without assistance, which may include voting at the county clerk's office, or other place designated by the county board of elections, and approved by the State Board of Elections.
- (7) Notwithstanding the provisions of KRS~~{117.075,}~~ 117.085, 117.086, or 117.0863 or any other statute to the contrary, a blind or visually impaired individual residing in a county containing a consolidated local government or containing a city of the first class that is operating a pilot program shall be permitted to vote in the location within the county of his or her registration as provided under subsection (6) of this section, on a voting machine designed to permit blind or visually impaired individuals to vote without assistance, at any

time during which absentee voting is conducted in the clerk's office or other place designated by the county board of elections during normal business hours on at least any of the twelve (12) working days before the election, and the county board of elections may permit the voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above. An application for those blind or visually impaired individuals wishing to vote on a voting machine approved for use by blind or visually impaired individuals shall be prescribed by the State Board of Elections and shall include the individual's sworn statement that the individual is blind or visually impaired.

- (8) Notwithstanding the requirements of KRS 117.381, or any other statute to the contrary, the State Board of Elections may certify, as a part of the pilot project of a county containing a consolidated local government or containing a city of the first class, voting equipment which utilizes audio recordings, voice-activated technology, or vocal recognition technology to record a vote, and may require such accommodations as would permit a blind or visually impaired voter to cast a vote in secret.
- (9) Notwithstanding the provisions of KRS 117.255, a blind or visually impaired voter residing in a county containing a consolidated local government or containing a city of the first class that is operating a pilot project may cast his or her vote alone and without assistance on a voting machine approved for use by blind or visually impaired individuals. However, the blind or visually impaired voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.
- (10) Nothing in this section shall impair the right of any qualified voter under KRS 117.255 to receive assistance and vote according to the procedures specified in that section.

➔Section 6. KRS 117A.060 is amended to read as follows:

- (1) A covered voter who is registered to vote in the Commonwealth of Kentucky may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under KRS 117.085 or the federal postcard application or the application's electronic equivalent.
- (2) A covered voter who is not registered to vote in the Commonwealth of Kentucky may use a federal postcard application or the application's electronic equivalent to apply simultaneously to register to vote under KRS 117A.050 and for a military-overseas ballot.
- (3) The Secretary of State shall ensure that the electronic transmission system described in KRS 117A.030(4) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The covered voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.
- (4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the close of business hours seven (7) days before the election.
- (5) To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:
 - (a) The use of a federal postcard application or federal write-in absentee ballot; and
 - (b) The use of the electronic transmission system established under KRS 117A.030(4).
- (6) This chapter does not preclude a covered voter from voting using the regular absentee ballot provisions under KRS~~[117.075]~~ 117.077, 117.085, and 117.086.

➔Section 7. KRS 117A.070 is amended to read as follows:

An application for a military-overseas ballot is timely if received by the close of business hours seven (7) days before the election. An application for a military-overseas ballot for a primary, whether or not timely, is effective as an application for a military-overseas ballot for the regular election.

➔Section 8. The following KRS section is repealed:

117.075 Mail-in absentee ballots for voters with disabilities.

Signed by Governor March 26, 2019.

