

117.085 Mail-in absentee ballots -- Application through online portal and other means -- Procedures -- Cancellation -- Administrative regulations -- Disclosure of information.

- (1) (a) All requests for a mail-in absentee ballot shall be requested through a secure online portal established by the State Board of Elections, except for:
 1. Voters identified in KRS 117.077;
 2. Disabled voters; and
 3. Covered voters in paragraph (i) of this subsection; who have the additional option of requesting a mail-in absentee ballot application through the county clerk.
- (b) Acquiring a mail-in absentee ballot by means of the online portal shall require the voter to input personally identifiable information for verification.
- (c) For those voters who do not have the means of accessing the online portal, the county clerk shall fulfill a request for a mail-in absentee ballot by taking the voter's information over the telephone or in person and directly inputting that information into the secure online portal.
- (d) The online portal shall have the capacity to ensure the identity of the voter through proof of identification as required under KRS 117.227 or by means of KRS 117.228.
- (e) If a voter qualifies to receive a mail-in absentee ballot, the online portal shall transmit the mail-in absentee ballot request to the county clerk of the county in which the voter is registered to vote.
- (f) The online portal shall not be open or permit any mail-in ballot requests to occur more than forty-five (45) days immediately preceding the day of a primary or an election. The online portal shall close at 11:59 p.m. local time, fourteen (14) days immediately preceding the day of a primary or an election.
- (g) Except as otherwise provided in KRS 117.077, the mail-in absentee ballot 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.
- (h) Except as otherwise provided in KRS 117.077 and covered voters in paragraph (i) of this subsection, a qualified voter may apply to cast his or her vote by mail-in absentee ballot if the completed application is received fourteen (14) days before the election, and if the voter is:
 1. A resident of Kentucky who is a covered voter as defined in KRS 117A.010;
 2. A student who temporarily resides outside the county of his or her residence;
 3. Incarcerated in jail and charged with a crime, but has not been convicted of the crime;
 4. 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. Temporarily residing outside the state but still eligible to vote in this state;
 6. Prevented from voting in person at the polls on election day and from casting an excused or no-excuse in-person absentee ballot on all days in-person absentee voting is conducted because he or she will be absent from the county of his or her residence all hours and all days excused or no-excuse in-person absentee voting is conducted;
 7. 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 or the days excused or no-excuse in-person absentee voting is conducted on the account of age, disability, or illness, and who has not been declared mentally disabled by a court of competent jurisdiction.
- (i) 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.
- (j) Any qualified voter who is disabled may use an accessible mail-in absentee ballot portal to request and receive a mail-in absentee ballot by means of an electronic transmission system as established under KRS 117A.030(4). The standards necessary to implement this paragraph shall be set by the State Board of Elections pursuant to administrative regulations promulgated under KRS Chapter 13A.
- (2) For those voters who are eligible to receive a mail-in absentee ballot by means other than the secure online portal pursuant to subsection (1) of this section, 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 for that person's use and no other. The mail-in absentee ballot application shall be in the form prescribed by the State Board of Elections, which shall include the voter affirmation form as prescribed in KRS 117.228(1)(c) and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on the day of an election or during the dates and time no-excuse in-person absentee voting is being conducted, statement of where the voter shall be on election day or during the dates and times no-excuse in-person absentee voting is being conducted, statement of compliance with residency requirements for voting in the precinct, an instructional statement prescribing the requirements for providing a copy of the voter's proof of identification or voter affirmation when

applicable, 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, and the voter shall provide a copy of his or her proof of identification, as defined in KRS 117.001, or the executed voter affirmation as described in KRS 117.228(1)(c). 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) For those voters eligible to receive a mail-in absentee ballot, if the county clerk finds that the voter has completed and submitted an application for a mail-in absentee ballot as provided in this section, is properly registered as stated in his or her mail-in absentee ballot application, and qualifies to receive a mail-in absentee ballot by mail, the county clerk 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.
- (4) Mail-in absentee ballots shall be mailed to a voter's residential address located in the county in which the voter is registered, except for:
 - (a) Qualified voters who apply pursuant to the requirements of subsection (1)(h)1. to 5. of this section; or
 - (b) Qualified voters covered under KRS 117.077.
- (5) The county clerk shall:
 - (a) Transmit a mail-in absentee ballot to the voter who is eligible to receive a mail-in absentee ballot within four (4) days of receipt or within four (4) days of the ballots being available;
 - (b) 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; and
 - (c) 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. Unless a postal form for a certificate of mailing is required, the county clerk may use methods of tracking the mail-in absentee ballots by means of a printed barcode or other label that is unique to the individual voter issued by the State Board of Elections pursuant to administrative regulations promulgated under KRS Chapter 13A.
- (6) 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.
- (7) The outer envelope of the mail-in absentee ballot shall bear the words "Absentee Ballot", the address and official title of the county clerk, a printed barcode or other label that is unique to the individual voter issued by the State Board of Elections, and adequate 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 secrecy 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 secrecy envelope immediately below the blank space for the voter's signature. The secrecy envelope shall be blank. If applicable, the county clerk shall retain the voter's mail-in ballot application, which shall include the photographed copy of the voter's proof of identification or the voter affirmation as prescribed by KRS 117.228(1)(c), and the postal form required by subsection (5) of this section for twenty-two (22) months after the primary or election.

- (8) Except as otherwise provided in subsection (10) of this section, any person who has received a mail-in absentee ballot 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 or during the days of no-excuse in-person absentee voting and who has not voted by means of his or her mail-in absentee ballot 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 by mail or hand delivery 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.
- (9) 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, hand-delivered, or placed in a secure drop-box or receptacle, and the in-person absentee voting and federal in-person provisional absentee voting that is conducted, to verify that only the first voted ballot is counted. Upon the return of any mail-in absentee ballot after the first mail-in absentee ballot is returned, the county clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (10) 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 or during the days of no-excuse in-person absentee voting shall cancel his or her mail-in absentee ballot and vote in person during the days of no-excuse in-person absentee voting or on the day of the election. 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. The county clerk shall remove the voter's name from the list of persons who were sent mail-in absentee ballots, allow the voter to vote by means of no-excuse in-person absentee ballot, or provide the voter with written authorization to vote at the

precinct on election day. If the 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 a form prescribed by the State Board of Elections pursuant to KRS 117.245.

- (11) The State Board of Elections shall promulgate administrative regulations to:
 - (a) Ensure election officials have real-time knowledge of which voters have requested mail-in absentee ballots; and
 - (b) Provide procedures to be followed if a voter attempts to vote more than once at a primary or an election.
- (12) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, and except for when the identification of the voter is provided to the county board of elections under KRS 117.087, 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. Except for necessary election officials and for election-related duties as prescribed by law, the name of the person who votes by means of a mail-in absentee ballot shall not be disclosed. 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.

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History: Amended 2022 Ky. Acts ch. 87, sec. 7, effective April 7, 2022. -- Amended 2021 Ky. Acts ch. 197, sec. 11, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 89, sec. 5, effective July 15, 2020. -- Amended 2019 Ky. Acts ch. 112, sec. 2, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 190, sec. 7, effective April 11, 2017. -- Amended 2013 Ky. Acts ch. 87, sec. 11, effective June 25, 2013; ch. 124, sec. 2, effective June 25, 2013, and ch. 131, sec. 22, effective July 1, 2014. -- Amended 2010 Ky. Acts ch. 176, sec. 5, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 79, sec. 1, effective July 15, 2008; and ch. 129, sec. 3, effective July 15, 2008. -- Amended 2002 Ky. Acts ch. 3, sec. 2, effective February 15, 2002; and ch. 63, sec. 12, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 134, sec. 1, effective March 17, 2000. -- Amended 1998 Ky. Acts ch. 243, sec. 6, effective April 1, 1998; and ch. 386, sec. 1, April 7, 1998. -- Amended 1996 Ky. Acts ch. 163, sec. 1, effective April 3, 1996; and ch. 195, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 394, sec. 11, effective July 15, 1994. Amended 1992 Ky. Acts ch. 65, sec. 2, effective March 19, 1992; and ch. 288, sec. 35, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 48, sec. 18, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 25, sec. 1, effective July 15, 1988; ch. 233, sec. 1, effective July 15, 1988; and ch. 341, sec. 27, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 287, sec. 5, effective July 15, 1986; and ch. 470, sec. 9, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 413, sec. 1, effective April 11, 1984. -- Amended 1982 Ky. Acts ch. 394, sec. 11, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 316, sec. 1, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 71, sec. 1, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 247, sec. 4, effective June 19, 1976.