

117.086 Return of absentee ballot -- Secure drop-boxes and receptacles -- Locked ballot box -- Clerk's duty to keep separate lists for votes cast by mail-in absentee ballot, by excused and no-excuse in-person voting, and by federal provisional in-person absentee ballot -- Report on rejected absentee ballots.

- (1)
 - (a) The voter returning his or her absentee ballot to the county clerk by mail, hand delivery, or to a secure drop-box or receptacle, shall mark his or her ballot, seal it in the secrecy envelope, and then seal the outer envelope.
 - (b) The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A person having power of attorney for the voter and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form as required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. A resident of Kentucky who is a covered voter as defined in KRS 117A.010 who has received an absentee ballot transmitted by facsimile machine or by means of the electronic transmission system established under KRS 117A.030(4) shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the State Board of Elections by administrative regulation under KRS Chapter 13A. In order to be counted, all mail-in absentee ballots shall be received by the county clerk no later than the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.
- (2)
 - (a) The county clerk shall provide a minimum of one (1) secure ballot drop-box to receive voted mail-in absentee ballots for each primary, regular election, or special election. Public notice of all secure ballot drop-box locations shall be given in the same manner as provided under KRS 117.076(4), and posted to the Web site of the county clerk.
 - (b) The county board of elections may seek the State Board of Elections' approval of a ballot receptacle to receive voted mail-in absentee ballots for each primary, regular election, or special election. Public notice of all secure ballot receptacle locations shall be given in the same manner as provided under KRS 117.076(4), and posted to the Web site of the county clerk. Before any mail-in absentee ballot shall be allowed to be deposited inside a receptacle, the county board of elections shall inform the State Board of Elections of:
 1. The number of receptacles to be used;
 2. The type of each receptacle to be used; and
 3. The receptacle location.
 - (c) Any drop-box or receptacle located outside of the county clerk's office shall be:
 1. Placed in a well-lit and easily accessible location;
 2. Secured to ensure immobility while in use;
 3. Under video surveillance at all times;

4. Tamper-resistant; and
 5. Conspicuously noted as a mail-in absentee ballot drop-off location.
- (d) A drop-box or receptacle located inside the county clerk's office shall be under direct supervision of the staff of the county clerk at all times and be accessible to the public.
 - (e) Each receptacle or drop-box shall be emptied by the county clerk and at least one (1) member of the county board of elections or one (1) member of the central ballot counting board if one is appointed, who is not of the same political affiliation as the county clerk at least once each business day or more frequently, as needed, to reasonably secure and accommodate the volume of the voter-delivered mail-in absentee ballots. The ballots deposited in the drop-box or receptacle shall be removed with a record of the date and time ballots were removed, and the names of the persons removing them. If the drop-box or receptacle is located outside the county clerk's office, the ballots shall be returned to the county clerk in locked transport containers, and the county clerk shall transfer the ballots upon receipt in accordance with subsection (3) of this section.
 - (f) Except for those times ballots are being removed and transported from a secure ballot drop box to the county clerk as provided in this subsection, the county clerk and at least one (1) member of the county board of elections who is not of the same political affiliation or one (1) member of the central ballot counting board who is not of the same political affiliation as the county clerk, shall retain the keys to all secure ballot drop-boxes, receptacles, and transport containers in use in the county.
 - (g) The State Board of Elections may establish additional security measures and procedures for the use of the ballot drop-box or receptacle through administrative regulations promulgated under KRS Chapter 13A.
- (3) Upon receipt of a mail-in absentee ballot, the county clerk shall scan the barcode or label that is unique to the individual voter to note the receipt of the mail-in absentee ballot, and deposit all of the mail-in absentee ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with two (2) locks. The keys to the ballot box shall be retained by at least two (2) members of the county board of elections who are not of the same political affiliation or two (2) members of the central ballot counting board if one (1) is appointed, who are not of the same political affiliation, and the box shall remain locked until the ballots are processed, reviewed, or counted under KRS 117.087.
 - (4) The county clerk shall keep separate lists for each election of all persons who:
 - (a) Return their mail-in absentee ballots;
 - (b) Cast their excused and no-excuse in-person absentee ballots; and
 - (c) Cast their federal provisional in-person absentee ballots.

The county clerk shall send a copy of each list to the State Board of Elections after any primary or election day. Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, each list of all persons who return their mail-in absentee ballots or who cast their ballots by means of an excused in-person absentee or no-excuse in-person absentee shall not be

made public until after the close of business hours on the primary or election day for which the list applies, except when provided to the county board of elections under KRS 117.087. The county clerk and the Secretary of State shall keep a record of the number of votes cast by each method listed in paragraphs (a) to (c) of this subsection, which are cast in any primary or election as a part of the official returns of the primary or election.

- (5) The county board of elections shall report to the State Board of Elections within ten (10) days after any primary or regular election as to the number of rejected absentee ballots, including rejected mail-in absentee ballots and ballots cast under subsection (3) of this section, and the reasons for rejecting the ballots on a form prescribed and furnished by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A.

Effective: April 7, 2022

History: Amended 2022 Ky. Acts ch. 87, sec. 9, effective April 7, 2022. -- Amended 2021 Ky. Acts ch. 197, sec. 12, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 89, sec. 7, effective July 15, 2020. -- Amended 2013 Ky. Acts ch. 124, sec. 3, effective June 25, 2013; and ch. 131, sec. 23, effective July 1, 2014. -- Amended 2002 Ky. Acts ch. 3, sec. 3, effective February 15, 2002. -- Amended 2000 Ky. Acts ch. 134, sec. 2, effective March 17, 2000. -- Amended 1998 Ky. Acts ch. 243, sec. 7, April 1, 1998; and ch. 386, sec. 2, effective April 7, 1998. -- Amended 1994 Ky. Acts ch. 394, sec. 12, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 48, sec. 19, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 341, sec. 28, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 287, sec. 6, effective July 15, 1986; and ch. 470, sec. 10, effective July 15, 1986. -- Repealed and reenacted 1980 Ky. Acts ch. 73, sec. 2, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 71, sec. 2, effective June 17, 1978. -- Created 1974 Ky. Acts ch. 130, sec. 46, effective June 21, 1974.

Formerly codified as KRS 117.325

Legislative Research Commission Note (4/7/2022). When this statute was amended in 2022 Ky. Acts ch. 87, sec. 9, what was then subsection (3) was deleted. However, an existing reference elsewhere in the statute to "subsection (3) of this section" was inadvertently left unchanged. That reference appears in the present subsection (5) of this statute.