

1 AN ACT relating to absentee ballots for voters.

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

3 ➔Section 1. KRS 117.075 is amended to read as follows:

4 (1) Any qualified voter who has not been declared mentally disabled by a court of  
5 competent jurisdiction, and who, on account of age, disability, or illness, is not able  
6 to appear at the polls on election day may vote ***by a mail-in absentee ballot***  
7 ***pursuant to subsection (2) of this section or in-person pursuant to Section 2 of***  
8 ***this Act***~~[in the following manner].~~

9 ***(2)*** At least seven (7) days prior to the date of the election and prior to the close of  
10 normal business hours, ***a qualified voter may***~~he shall] present to the ***county*** clerk  
11 by mail or in person his ***or her*** application for ***a mail-in***~~an] absentee ballot  
12 containing a verified statement that his ***or her*** inability to appear is due to age,  
13 disability, or illness. The request for the ***mail-in absentee ballot*** application may be  
14 made by telephone, facsimile machine, mail, or in person. Within three (3) days of  
15 receipt of the request, the ***county*** clerk shall mail to the voter ***a mail-in***~~an] absentee  
16 ballot and envelopes, and the voter shall cast his ***or her*** vote in accordance with  
17 KRS 117.086. The ***mail-in absentee*** ballot shall be returned by the voter to the  
18 county clerk by mail.~~~~~~

19 ***(3)***~~(2)] Ballots furnished pursuant to~~the provisions of]~~ this section shall include the  
20 ***slate of candidates and***~~names of ]all candidates for which the voter is entitled to  
21 vote.~~~~

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

23 (1) All requests for an application for ***a mail-in***~~an] absentee ballot may be transmitted  
24 by telephone, facsimile machine, by mail, by electronic mail, or in person. ***The***  
25 ***county clerk shall transmit all applications for a mail-in absentee ballot***~~Except  
26 as provided in paragraph (b) of this subsection, all applications for an absentee  
27 ballot shall be transmitted only] by mail to the voter or in person at the option of the~~~~

1 voter, *except as provided in paragraph (b) of this subsection*~~—except that the~~  
2 ~~county clerk shall hand an application for an absentee ballot to a voter permitted to~~  
3 ~~vote by absentee ballot who appears in person to request the application, or shall~~  
4 ~~mail the application to a voter permitted to vote by absentee ballot who requests the~~  
5 ~~application by telephone, facsimile machine, or mail~~. The *mail-in* absentee ballot  
6 application may be requested by the voter or the spouse, parents, or children of the  
7 voter, but shall be restricted to the use of the voter. Except for qualified voters who  
8 apply pursuant to the requirements of KRS 117.075 and 117.077, those who are  
9 incarcerated in jail but have yet to be convicted, those who are uniformed-service  
10 voters as defined in KRS 117A.010 that are confined to a military base on election  
11 day, and persons who qualify under paragraph (a)7. of this subsection, *mail-in*  
12 absentee ballots shall not be mailed to a voter's residential address located in the  
13 county in which the voter is registered.~~[In the case of ballots returned by mail,]~~ The  
14 county clerk shall provide *a mail-in*~~[an]~~ absentee ballot, two (2) official envelopes  
15 for returning the *mail-in absentee* ballot, and instructions for voting to a voter who  
16 presents a completed application for *a mail-in*~~[an]~~ absentee ballot as provided in  
17 this section and who is properly registered as stated in his or her *mail-in absentee*  
18 *ballot* application.

19 (a) The following *qualified* voters may apply to cast their votes by mail-in  
20 absentee ballot if the application is received not later than the close of  
21 business hours seven (7) days before the election:

- 22 1. Voters permitted to vote by *a mail-in* absentee ballot pursuant to KRS  
23 117.075;
- 24 2. Voters who are residents of Kentucky who are covered voters as defined  
25 in KRS 117A.010;
- 26 3. Voters who are students who temporarily reside outside the county of  
27 their residence;

- 1           4.   Voters who are incarcerated in jail who have been charged with a crime
- 2                   but have not been convicted of the crime;
- 3           5.   Voters who change their place of residence to a different state while the
- 4                   registration books are closed in the new state of residence before an
- 5                   election of electors for President and Vice President of the United
- 6                   States, who shall be permitted to cast a mail-in~~an~~ absentee ballot for
- 7                   electors for President and Vice President of the United States only;
- 8           6.   Voters who temporarily reside outside the state but who are still eligible
- 9                   to vote in this state;
- 10          7.   Voters who are prevented from voting in person at the polls on election
- 11                   day and from casting an in-person absentee ballot ~~in person~~ in the
- 12                   county clerk's office on all days in-person absentee voting is conducted
- 13                   ~~prior to election day~~ because their employment location requires them
- 14                   to be absent from the county of their residence all hours and all days in-
- 15                   person absentee voting is conducted in the county clerk's office; and
- 16          8.   Voters who are program participants in the Secretary of State's crime
- 17                   victim address confidentiality protection program as authorized by KRS
- 18                   14.312.
- 19          (b) Residents of Kentucky who are covered voters as defined in KRS 117A.010
- 20                   may apply for a mail-in~~an~~ absentee ballot by means of the federal post-card
- 21                   application, which may be transmitted to the county clerk's office by mail, by
- 22                   facsimile machine, or by means of the electronic transmission system
- 23                   established under KRS 117A.030(4). The federal post-card application may
- 24                   be used to register, reregister, and to apply for a mail-in~~an~~ absentee ballot. If
- 25                   the federal post-card application is received at any time not less than seven (7)
- 26                   days before the election, the county clerk shall affix his or her seal to the
- 27                   application form upon receipt.

- 1 (c) **In-person** absentee voting shall be conducted in the county clerk's office or  
2 other place designated by the county board of elections and approved by the  
3 State Board of Elections during normal business hours for at least the twelve  
4 (12) working days before the election. A county board of elections may permit  
5 **in-person** absentee voting to be conducted on a voting machine for a period  
6 longer than the twelve (12) working days before the election.
- 7 (d) Any qualified voter in the county **of his or her residence** who is not permitted  
8 to vote by **a mail-in** absentee ballot under paragraph (a) of this subsection  
9 who will be absent from the county **of his or her residence** on any election  
10 day may, at any time during normal business hours on those days **in-person**  
11 absentee voting is conducted in the county clerk's office, make application in  
12 person to the county clerk to vote on a voting machine in the county clerk's  
13 office or other place designated by the county board of elections and approved  
14 by the State Board of Elections.
- 15 (e) **Qualified**~~The following~~ voters may, at any time during normal business  
16 hours on those days **in-person** absentee voting is conducted in the county  
17 clerk's office, make application in person to the county clerk to vote on a  
18 voting machine in the county clerk's office or other place designated by the  
19 county board of elections and approved by the State Board of Elections, **if the**  
20 **voters:**
- 21 1. ~~{Voters who }~~Are residents of Kentucky who are covered voters as  
22 defined in KRS 117A.010, who will be absent from the county **of their**  
23 **residence** on any election day;
  - 24 2. ~~{Voters who }~~Are students who temporarily reside outside the county of  
25 their residence;
  - 26 3. ~~{Voters who }~~Have surgery scheduled that will require hospitalization on  
27 election day, and the spouse of the voter;

- 1           4. ~~{Voters who }~~Temporarily reside outside the state but who are still  
 2           eligible to vote in this state and who will be absent from the county ***of***  
 3           ***their residence*** on any election day;
- 4           5. ~~{Voters who }~~Are residents of Kentucky who are uniformed-service  
 5           voters as defined in KRS 117A.010 confined to a military base on  
 6           election day and who learn of that confinement within seven (7) days or  
 7           less of an election and are not eligible for a ***mail-in***~~{paper}~~ absentee  
 8           ballot under this subsection;~~{and}~~
- 9           6. ***Are in their***~~{A voter who is a pregnant woman in her}~~ last trimester of  
 10          pregnancy at the time ***they wish***~~{she wishes}~~ to vote under this  
 11          paragraph. The application form for a voter under this subparagraph  
 12          shall be prescribed by the State Board of Elections, which shall contain  
 13          the woman's sworn statement that she is in fact in her last trimester of  
 14          pregnancy at the time she wishes to vote; ***and***
- 15          **7. On account of age, disability, or illness, are not able to appear at the**  
 16          **polls on election day.**
- 17          (f) Voters who change their place of residence to a different state while the  
 18          registration books are closed in the new state of residence before a presidential  
 19          election shall be permitted to cast an ***in-person*** absentee ballot for President  
 20          and Vice President only, by making application in person to the county clerk  
 21          to vote on a voting machine in the county clerk's office or other place  
 22          designated by the county board of elections and approved by the State Board  
 23          of Elections, **up to the close of normal business hours on the day before the**  
 24          **election.**
- 25          (g) Any member of the county board of elections, any precinct election officer  
 26          appointed to serve in a precinct other than that in which he or she is registered,  
 27          any alternate precinct election officer, any deputy county clerk, any staff for

1 the State Board of Elections, and any staff for the county board of elections  
2 may vote on a voting machine in the county clerk's office or other place  
3 designated by the county board of elections, and approved by the State Board  
4 of Elections, up to the close of normal business hours on the day before the  
5 election. The application form for those persons shall be prescribed by the  
6 State Board of Elections and, in the case of application by precinct election  
7 officers, shall contain a verification of appointment signed by a member of the  
8 county board of elections. If an alternate precinct election officer or a precinct  
9 election officer appointed to serve in a precinct other than that in which he or  
10 she is registered receives his or her appointment while in-person absentee  
11 voting is being conducted in the county, ~~the~~<sup>[such]</sup> officer may vote on a  
12 voting machine in the county clerk's office or other place designated by the  
13 county board of elections, and approved by the State Board of Elections, up to  
14 the close of normal business hours on the day before the election. Precinct  
15 election officers~~[In case of such voters, the]~~ verification of appointment shall  
16 also contain the date of appointment. The applications shall be restricted to the  
17 use of the voter only.

- 18 (h) The members of the county board of elections or their designees who provide  
19 equal representation of both political parties may serve as precinct election  
20 officers, without compensation, for all in-person absentee voting performed  
21 on a voting machine in the county clerk's office or other place designated by  
22 the county board of elections and approved by the State Board of Elections. If  
23 the members of the county board of elections or their designees serve as  
24 precinct election officers for the in-person absentee voting, they shall perform  
25 the same duties and exercise the same authority as precinct election officers  
26 who serve on the day of an election. If the members of the county board of  
27 elections or their designees do not serve as precinct election officers for in-

1            ~~person~~<sup>the</sup> absentee voting, the county clerk or deputy county clerks shall  
2            supervise the ***in-person*** absentee voting.

3            (i) Any individual qualified to appoint challengers for the day of an election may  
4            also appoint challengers to observe all ***in-person*** absentee voting performed at  
5            the county clerk's office or other place designated by the county board of  
6            elections, and approved by the State Board of Elections, and those challengers  
7            may exercise the same privileges as challengers appointed for observing  
8            voting on the day of an election at a regular polling place.

9            (2) The ***county*** clerk shall type the name of the voter permitted to vote by ***mail-in***  
10            absentee ballot on the ***mail-in absentee ballot*** application form for that person's use  
11            and no other. The ***mail-in*** absentee ballot application form shall be in the form  
12            prescribed by the State Board of Elections, shall bear the seal of the county clerk,  
13            and shall contain the following information: name, residential address, precinct,  
14            party affiliation, statement of the reason the person cannot vote in person on  
15            election day, statement of where the voter shall be on election day, statement of  
16            compliance with residency requirements for voting in the precinct, and the voter's  
17            mailing address for ~~a mail-in~~<sup>an</sup> absentee ballot. The ***mail-in absentee ballot***  
18            ***application*** form shall be verified and signed by the voter. A notice of the actual  
19            penalty provisions in KRS 117.995(2) and (5) shall be printed on the ***mail-in***  
20            ***absentee ballot application form***~~application~~.

21            (3) If the county clerk finds that the voter is properly registered as stated in his or her  
22            ***mail-in absentee ballot application form***~~application~~ and qualifies to receive ~~a~~  
23            ~~mail-in~~<sup>an</sup> absentee ballot by mail, he or she shall mail to the voter ~~a mail-in~~<sup>an</sup>  
24            absentee ballot, two (2) official envelopes for returning the ballot, and instructions  
25            for voting. The county clerk shall complete a postal form for a certificate of mailing  
26            for ***mail-in absentee*** ballots mailed within the fifty (50) states, and it shall be  
27            stamped by the postal service when the ***mail-in absentee*** ballots are mailed. ***A mail-***

1 in~~[An]~~ absentee ballot may be transmitted by facsimile machine or by the electronic  
2 transmission system established under KRS 117A.030(4) to a covered voter as  
3 defined in KRS 117A.010. The covered voter shall be notified of the options for  
4 transmittal of the mail-in absentee ballot, and the mail-in absentee ballot shall be  
5 transmitted by the method chosen for receipt by the resident of Kentucky who is a  
6 covered voter.

7 (4) Mail-in absentee ballots which are requested prior to the printing of the ballots shall  
8 be mailed or otherwise transmitted as provided in subsection (3) of this section by  
9 the county clerk to the voter within three (3) days of the receipt of the printed  
10 ballots; and mail-in absentee ballots which are requested subsequent to the receipt  
11 of the ballots by the county clerk shall be mailed or otherwise transmitted as  
12 provided in subsection (3) of this section to the voter within three (3) days of the  
13 receipt of the request.

14 (5) The county clerk shall cause ballots to be printed fifty (50) days prior to each  
15 primary or regular election, and forty-five (45) days prior to a special election.

16 (6) The outer envelope shall bear the words "Absentee Ballot" and the address and  
17 official title of the county clerk and shall provide space for the voter's signature,  
18 voting address, precinct number, and signatures of two (2) witnesses if the voter  
19 signs the form with the use of a mark instead of the voter's signature. A detachable  
20 flap on the inner envelope shall provide space for the voter's signature, voting  
21 address, precinct number, signatures of two (2) witnesses if the voter signs the form  
22 with the use of a mark instead of the voter's signature and notice of penalty provided  
23 in KRS 117.995(5). The county clerk shall type the voter's address and precinct  
24 number in the upper left hand corner of the outer envelope and of the detachable  
25 flap on the inner envelope immediately below the blank space for the voter's  
26 signature. The inner envelope shall be blank. The county clerk shall retain the mail-  
27 in ballot application form~~[application]~~ and the postal form required by subsection



- 1 (3) of this section for twenty-two (22) months after the election.
- 2 (7) Any person who has received a mail-in~~[an]~~ absentee ballot by mail but who knows  
3 at least seven (7) days before the date of the election that he or she will be in his or  
4 her county of residence~~[the county]~~ on election day and who has not voted pursuant  
5 to the provisions of KRS 117.086 shall cancel his or her mail-in absentee ballot and  
6 vote in person. The voter shall return the mail-in absentee ballot to the county  
7 clerk's office no later than seven (7) days prior to the date of the election. Upon the  
8 return of the mail-in absentee ballot, the county clerk shall mark on the outer  
9 envelope of the sealed ballot or the unmarked ballot the words "Canceled because  
10 voter appeared to vote in person." Sealed envelopes so marked shall not be opened.  
11 The county clerk shall remove the voter's name from the list of persons who were  
12 sent mail-in absentee ballots, and the voter may vote in the precinct in which he or  
13 she is properly registered.
- 14 (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested  
15 mail-in absentee ballot within a reasonable amount of time shall contact the county  
16 clerk, who shall reissue a second mail-in absentee ballot. The county clerk shall  
17 keep a record of the mail-in absentee ballots issued and returned by mail, and the  
18 in-person absentee voting that is performed on the voting machine in the county  
19 clerk's office or other place designated by the county board of elections and  
20 approved by the State Board of Elections, to verify that only the first voted ballot to  
21 be returned by the voter is counted. Upon the return of any ballot after the first  
22 ballot is returned, the county clerk shall mark on the outer envelope of the sealed  
23 ballot the words "Canceled because ballot reissued."
- 24 (9) Any covered voter as defined in KRS 117A.010 who has received a mail-in~~[an]~~  
25 absentee ballot but who knows that he or she will be in the county on election day  
26 and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his  
27 or her mail-in absentee ballot and vote in person. The voter shall return the mail-in

1 absentee ballot to the county clerk's office on or before election day. Upon the  
2 return of the mail-in absentee ballot, the county clerk shall mark on the outer  
3 envelope of the sealed mail-in absentee ballot or the unmarked mail-in absentee  
4 ballot the words "Canceled because voter appeared to vote in person." Sealed  
5 envelopes so marked shall not be opened. If the covered voter is unable to return the  
6 mail-in absentee ballot to the county clerk's office on or before election day, at the  
7 time he or she votes in person, he or she shall sign a written oath as to his or her  
8 qualifications on the form prescribed by the State Board of Elections pursuant to  
9 KRS 117.245. The county clerk shall remove the voter's name from the list of  
10 persons who were sent mail-in absentee ballots, provide the voter with written  
11 authorization to vote at the precinct, and the voter may vote in the precinct in which  
12 he or she is properly registered.

13 (10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to  
14 61.884, the information contained in an application for a mail-in~~[an]~~ absentee  
15 ballot shall not be made public until after the close of business hours on the election  
16 day for which the application applies. This subsection shall not prohibit at any time  
17 the disclosure, upon request, of the total number of applications for mail-in  
18 absentee ballots that have been filed, or the disclosure to the Secretary of State or  
19 the State Board of Elections, if requested or if otherwise required by law, of any  
20 information in an application for a mail-in~~[an]~~ absentee ballot.