

1 AN ACT relating to absentee voting.

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

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

4 (1) All requests for an application for a mail-in absentee ballot may be transmitted by
5 telephone, facsimile machine, by mail, by electronic mail, or in person. The county
6 clerk shall transmit all applications for a mail-in absentee ballot to the voter by
7 mail, electronic mail, or in person at the option of the voter, except as provided in
8 paragraph (b) of this subsection. The mail-in absentee ballot application may be
9 requested by the voter or the spouse, parents, or children of the voter, but shall be
10 restricted to the use of the voter.

11 (a) A qualified voter may apply to cast his or her vote by mail-in absentee ballot
12 if the completed application is received not later than the close of business
13 hours seven (7) days before the election, and if the voter is:

- 14 1. A resident of Kentucky who is a covered voter as defined in KRS
15 117A.010;
- 16 2. A student who temporarily resides outside the county of his or her
17 residence;
- 18 3. Incarcerated in jail and charged with a crime, but has not been convicted
19 of the crime;
- 20 4. Changing or has changed his or her place of residence to a different state
21 while the registration books are closed in the new state of residence
22 before an election of electors for President and Vice President of the
23 United States, in which case the voter shall be permitted to cast a mail-in
24 absentee ballot for electors for President and Vice President of the
25 United States only;
- 26 5. Temporarily residing outside the state but still eligible to vote in this
27 state;

- 1 6. Prevented from voting in person at the polls on election day and from
2 casting an in-person absentee ballot in the county clerk's office on all
3 days in-person absentee voting is conducted because his or her
4 employment location requires him or her to be absent from the county of
5 his or her residence all hours and all days in-person absentee voting is
6 conducted in the county clerk's office;
- 7 7. A participant in the Secretary of State's crime victim address
8 confidentiality protection program as authorized by KRS 14.312;~~or~~
- 9 8. Not able to appear at the polls on election day on the account of age,
10 disability, or illness, and who has not been declared mentally disabled by
11 a court of competent jurisdiction; or
- 12 9. A person employed as essential service personnel as defined in
13 paragraph (i) of this subsection, who is scheduled to work at any time
14 the polls are open on election day in fulfillment of his or her
15 professional duties as essential service personnel.
- 16 (b) Residents of Kentucky who are covered voters as defined in KRS 117A.010
17 may apply for a mail-in absentee ballot by means of the federal post-card
18 application, which may be transmitted to the county clerk's office by mail, by
19 facsimile machine, or by means of the electronic transmission system
20 established under KRS 117A.030(4). The federal post-card application may be
21 used to register, reregister, and to apply for a mail-in absentee ballot. If the
22 federal post-card application is received at any time not less than seven (7)
23 days before the election, the county clerk shall affix his or her seal to the
24 application form upon receipt.
- 25 (c) In-person absentee voting shall be conducted in the county clerk's office or
26 other place designated by the county board of elections and approved by the
27 State Board of Elections during normal business hours for at least the twelve

1 (12) working days before the election. A county board of elections may permit
2 in-person absentee voting to be conducted on a voting machine for a period
3 longer than the twelve (12) working days before the election.

4 (d) A qualified voter may, at any time during normal business hours on those days
5 in-person absentee voting is conducted in the county clerk's office, make
6 application in person to the county clerk to vote on a voting machine in the
7 county clerk's office or other place designated by the county board of elections
8 and approved by the State Board of Elections, if the voter:

- 9 1. Is a resident of Kentucky who is a covered voter as defined in KRS
10 117A.010, who will be absent from the county of his or her residence on
11 any election day;
- 12 2. Is a student who temporarily resides outside the county of his or her
13 residence;
- 14 3. Has surgery, or whose spouse has surgery, scheduled that will require
15 hospitalization on election day;
- 16 4. Temporarily resides outside the state, but is still eligible to vote in this
17 state and will be absent from the county of his or her residence on any
18 election day;
- 19 5. Is a resident of Kentucky who is a uniformed-service voter as defined in
20 KRS 117A.010 confined to a military base on election day, learns of that
21 confinement within seven (7) days or less of an election, and is not
22 eligible for a mail-in absentee ballot under this subsection;
- 23 6. Is in her last trimester of pregnancy at the time she wishes to vote under
24 this paragraph. The application form for a voter under this subparagraph
25 shall be prescribed by the State Board of Elections, which shall contain
26 the woman's sworn statement that she is in fact in her last trimester of
27 pregnancy at the time she wishes to vote;

- 1 7. Has not been declared mentally disabled by a court of competent
2 jurisdiction and, on account of age, disability, or illness, is not able to
3 appear at the polls on election day;~~[-or]~~
- 4 8. Is not permitted to vote by a mail-in absentee ballot under paragraph (a)
5 of this subsection, but who will be absent from the county of his or her
6 residence on election day;or
- 7 9. A person employed as essential service personnel as defined in
8 paragraph (i) of this subsection, who is scheduled to work at any time
9 the polls are open on election day in fulfillment of his or her
10 professional duties as essential service personnel.
- 11 (e) Voters who change their place of residence to a different state while the
12 registration books are closed in the new state of residence before a presidential
13 election shall be permitted to cast an in-person absentee ballot for President
14 and Vice President only, by making application in person to the county clerk
15 to vote on a voting machine in the county clerk's office or other place
16 designated by the county board of elections and approved by the State Board
17 of Elections, up to the close of normal business hours on the day before the
18 election.
- 19 (f) Any member of the county board of elections, any precinct election officer
20 appointed to serve in a precinct other than that in which he or she is registered,
21 any alternate precinct election officer, any deputy county clerk, any staff for
22 the State Board of Elections, and any staff for the county board of elections
23 may vote on a voting machine in the county clerk's office or other place
24 designated by the county board of elections, and approved by the State Board
25 of Elections, up to the close of normal business hours on the day before the
26 election. The application form for those persons shall be prescribed by the
27 State Board of Elections and, in the case of application by precinct election

1 officers, shall contain a verification of appointment signed by a member of the
2 county board of elections. If an alternate precinct election officer or a precinct
3 election officer appointed to serve in a precinct other than that in which he or
4 she is registered receives his or her appointment while in-person absentee
5 voting is being conducted in the county, the officer may vote on a voting
6 machine in the county clerk's office or other place designated by the county
7 board of elections, and approved by the State Board of Elections, up to the
8 close of normal business hours on the day before the election. Precinct
9 election officers' verification of appointment shall also contain the date of
10 appointment. The applications shall be restricted to the use of the voter only.

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

23 (h) Any individual qualified to appoint challengers for the day of an election may
24 also appoint challengers to observe all in-person absentee voting performed at
25 the county clerk's office or other place designated by the county board of
26 elections, and approved by the State Board of Elections, and those challengers
27 may exercise the same privileges as challengers appointed for observing

1 voting on the day of an election at a regular polling place.

2 (i) For purposes of this subsection, "essential service personnel" means a
3 person who is employed as a member of one (1) of the following
4 professions:

- 5 1. Firefighter;
- 6 2. Hazardous materials personnel, specialized rescue personnel, water
7 rescue personnel, extrication personnel, and any other specialized
8 emergency personnel;
- 9 3. Emergency medical services personnel;
- 10 4. Emergency management personnel;
- 11 5. Emergency medical technician;
- 12 6. Physician;
- 13 7. Physician assistant;
- 14 8. Nurse practitioner;
- 15 9. Registered nurse;
- 16 10. Mental health practitioner;
- 17 11. Paramedic;
- 18 12. Law enforcement officer;
- 19 13. Public health practitioner;
- 20 14. Emergency responder; or
- 21 15. Any other person employed in a profession that requires a license,
22 certificate, permit, or other official recognition of expertise in a
23 particular field or area of knowledge, whose assistance is desirable
24 during an emergency or medical response to prevent risk to health,
25 life, property, or the environment.

26 (2) The county clerk shall type the name of the voter permitted to vote by mail-in
27 absentee ballot on the mail-in absentee ballot application form for that person's use

1 and no other. The mail-in absentee ballot application form shall be in the form
2 prescribed by the State Board of Elections, shall bear the seal of the county clerk,
3 and shall contain the following information: name, residential address, precinct,
4 party affiliation, statement of the reason the person cannot vote in person on
5 election day, statement of where the voter shall be on election day, statement of
6 compliance with residency requirements for voting in the precinct, and the voter's
7 mailing address for a mail-in absentee ballot. The mail-in absentee ballot
8 application form shall be verified and signed by the voter. A notice of the actual
9 penalty provisions in KRS 117.995(2) and (5) shall be printed on the mail-in
10 absentee ballot application form.

11 (3) If the county clerk finds that the voter is properly registered as stated in his or her
12 mail-in absentee ballot application form and qualifies to receive a mail-in absentee
13 ballot by mail, he or she shall mail to the voter a mail-in absentee ballot, two (2)
14 official envelopes for returning the mail-in absentee ballot, and instructions for
15 voting. The county clerk shall complete a postal form for a certificate of mailing for
16 mail-in absentee ballots mailed within the fifty (50) states, and it shall be stamped
17 by the postal service when the mail-in absentee ballots are mailed. A mail-in
18 absentee ballot may be transmitted by facsimile machine or by the electronic
19 transmission system established under KRS 117A.030(4) to a covered voter as
20 defined in KRS 117A.010. The covered voter shall be notified of the options for
21 transmittal of the mail-in absentee ballot, and the mail-in absentee ballot shall be
22 transmitted by the method chosen for receipt by the resident of Kentucky who is a
23 covered voter.

24 (4) Mail-in absentee ballots which are requested prior to the printing of the mail-in
25 absentee ballots shall be mailed or otherwise transmitted as provided in subsection
26 (3) of this section by the county clerk to the voter within three (3) days of the receipt
27 of the printed ballots. Mail-in absentee ballots requested after the receipt of the

1 ballots by the county clerk shall be mailed or otherwise transmitted as provided in
2 subsection (3) of this section to the voter within three (3) days of the receipt of the
3 request.

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

7 (6) The outer envelope shall bear the words "Absentee Ballot" and the address and
8 official title of the county clerk and shall provide space for the voter's signature,
9 voting address, precinct number, and signatures of two (2) witnesses if the voter
10 signs the form with the use of a mark instead of the voter's signature. A detachable
11 flap on the inner envelope shall provide space for the voter's signature, voting
12 address, precinct number, signatures of two (2) witnesses if the voter signs the form
13 with the use of a mark instead of the voter's signature and notice of penalty provided
14 in KRS 117.995(5). The county clerk shall type the voter's address and precinct
15 number in the upper left hand corner of the outer envelope and of the detachable
16 flap on the inner envelope immediately below the blank space for the voter's
17 signature. The inner envelope shall be blank. The county clerk shall retain the mail-
18 in ballot application form and the postal form required by subsection (3) of this
19 section for twenty-two (22) months after the election.

20 (7) Any person who has received a mail-in absentee ballot by mail but who knows at
21 least seven (7) days before the date of the election that he or she will be in his or her
22 county of residence on election day, except as otherwise provided in subsection
23 (1)(a) of this section, and who has not voted pursuant to the provisions of KRS
24 117.086 shall cancel his or her mail-in absentee ballot and vote in person. The voter
25 shall return the mail-in absentee ballot to the county clerk's office no later than
26 seven (7) days prior to the date of the election. Upon the return of the mail-in
27 absentee ballot, the county clerk shall mark on the outer envelope of the sealed

1 ballot or the unmarked ballot the words "Canceled because voter appeared to vote in
2 person." Sealed envelopes so marked shall not be opened. The county clerk shall
3 remove the voter's name from the list of persons who were sent mail-in absentee
4 ballots, and the voter may vote in the precinct in which he or she is properly
5 registered.

6 (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested
7 mail-in absentee ballot within a reasonable amount of time shall contact the county
8 clerk, who shall reissue a second mail-in absentee ballot. The county clerk shall
9 keep a record of the mail-in absentee ballots issued and returned by mail, and the in-
10 person absentee voting that is performed on the voting machine in the county clerk's
11 office or other place designated by the county board of elections and approved by
12 the State Board of Elections, to verify that only the first voted ballot to be returned
13 by the voter is counted. Upon the return of any ballot after the first ballot is
14 returned, the county clerk shall mark on the outer envelope of the sealed ballot the
15 words "Canceled because ballot reissued."

16 (9) Any covered voter as defined in KRS 117A.010 who has received a mail-in
17 absentee ballot but who knows that he or she will be in the county on election day
18 and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his
19 or her mail-in absentee ballot and vote in person. The voter shall return the mail-in
20 absentee ballot to the county clerk's office on or before election day. Upon the
21 return of the mail-in absentee ballot, the county clerk shall mark on the outer
22 envelope of the sealed mail-in absentee ballot or the unmarked mail-in absentee
23 ballot the words "Canceled because voter appeared to vote in person." Sealed
24 envelopes so marked shall not be opened. If the covered voter is unable to return the
25 mail-in absentee ballot to the county clerk's office on or before election day, at the
26 time he or she votes in person, he or she shall sign a written oath as to his or her
27 qualifications on the form prescribed by the State Board of Elections pursuant to

1 KRS 117.245. The county clerk shall remove the voter's name from the list of
2 persons who were sent mail-in absentee ballots, provide the voter with written
3 authorization to vote at the precinct, and the voter may vote in the precinct in which
4 he or she is properly registered.

5 (10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to
6 61.884, the information contained in an application for a mail-in absentee ballot
7 shall not be made public until after the close of business hours on the election day
8 for which the application applies. This subsection shall not prohibit at any time the
9 disclosure, upon request, of the total number of applications for mail-in absentee
10 ballots that have been filed, or the disclosure to the Secretary of State or the State
11 Board of Elections, if requested or if otherwise required by law, of any information
12 in an application for a mail-in absentee ballot.