

1 AN ACT relating to elections.

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

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

- 4 (1) Before a person shall be qualified to vote in a primary, he or she:
- 5 (a) Shall possess all the qualifications required of voters in a regular election;
- 6 (b) Shall have been a registered member of the party in whose primary he or she
- 7 seeks to vote on December 31 immediately preceding the primary, ***except as***
- 8 ***provided in subsection (2) of this section;*** and
- 9 (c) Shall have remained continuously registered as a member of that party in
- 10 whose primary he or she seeks to vote between December 31 immediately
- 11 preceding the primary and the date set for the primary, ***except as provided in***
- 12 ***subsection (2) of this section.***
- 13 (2) ***A voter registered with a political organization or political group as defined in***
- 14 ***KRS 118.015, or of independent status, may vote in the primary of one of the two***
- 15 ***(2) political parties that polled the largest vote in the last preceding election for***
- 16 ***state officials if the person:***
- 17 ***(a) Possesses all the qualifications required of voters in a regular election;***
- 18 ***(b) Has remained continuously registered as a member of a political***
- 19 ***organization, political group, or as an independent, as entered into the***
- 20 ***statewide voter registration system under KRS 116.045, between December***
- 21 ***31 immediately preceding the primary and the date set for the primary;***
- 22 ***(c) Has no candidate for any office affiliated with his or her political***
- 23 ***organization or political group on the primary ballot; and***
- 24 ***(d) Immediately before signing the precinct list as required under KRS 117.225,***
- 25 ***selects and confirms his or her designation of the political party primary in***
- 26 ***which the voter chooses to vote on a form prescribed by the State Board of***
- 27 ***Elections in administrative regulations promulgated under KRS Chapter***

1 13A.

2 (3) In the case of a new registration made after December 31 immediately preceding the
3 primary, a voter shall have registered and remained continuously registered as a
4 member of the party in whose primary he or she seeks to vote from the date of
5 registration until the date set for the primary.

6 ~~(4)~~~~(3)~~ Any voter who withdraws his or her registration after December 31
7 immediately preceding the primary, and reregisters as a voter with a different party
8 affiliation, during those periods that the registration books are open immediately
9 preceding the primary, shall not be eligible to vote in the upcoming primary.

10 ~~(5)~~~~(4)~~ No person shall be allowed to vote for any party candidates or slates of
11 candidates other than that of the party of which he or she is a registered member,
12 except as provided in subsection (2) of this section.

13 ~~(6)~~~~(5)~~ The qualifications shall be determined as of the date of the primary, without
14 regard to the qualifications or disqualifications as they may exist at the succeeding
15 regular election, except that minors seventeen (17) years of age who will become
16 eighteen (18) years of age on or before the day of the regular election shall be
17 entitled to vote in the primary if otherwise qualified. However, any registered voter,
18 whether registered as a member of a party, political organization, political group, or
19 as an independent, shall be qualified to vote in a primary for candidates listed in all
20 nonpartisan races.

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

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

1 restricted to the use of the voter.

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

- 5 1. A resident of Kentucky who is a covered voter as defined in KRS
6 117A.010;
- 7 2. A student who temporarily resides outside the county of his or her
8 residence;
- 9 3. Incarcerated in jail and charged with a crime, but has not been convicted
10 of the crime;
- 11 4. Changing or has changed his or her place of residence to a different state
12 while the registration books are closed in the new state of residence
13 before an election of electors for President and Vice President of the
14 United States, in which case the voter shall be permitted to cast a mail-in
15 absentee ballot for electors for President and Vice President of the
16 United States only;
- 17 5. Temporarily residing outside the state but still eligible to vote in this
18 state;
- 19 6. Prevented from voting in person at the polls on election day and from
20 casting an in-person absentee ballot in the county clerk's office on all
21 days in-person absentee voting is conducted because his or her
22 employment location requires him or her to be absent from the county of
23 his or her residence all hours and all days in-person absentee voting is
24 conducted in the county clerk's office;
- 25 7. A participant in the Secretary of State's crime victim address
26 confidentiality protection program as authorized by KRS 14.312; or
- 27 8. Not able to appear at the polls on election day on the account of age,

1 disability, or illness, and who has not been declared mentally disabled by
2 a court of competent jurisdiction.

3 (b) Residents of Kentucky who are covered voters as defined in KRS 117A.010
4 may apply for a mail-in absentee ballot by means of the federal post-card
5 application, which may be transmitted to the county clerk's office by mail, by
6 facsimile machine, or by means of the electronic transmission system
7 established under KRS 117A.030(4). The federal post-card application may be
8 used to register, reregister, and to apply for a mail-in absentee ballot. If the
9 federal post-card application is received at any time not less than seven (7)
10 days before the election, the county clerk shall affix his or her seal to the
11 application form upon receipt.

12 (c) In-person absentee voting shall be conducted in the county clerk's office or
13 other place designated by the county board of elections and approved by the
14 State Board of Elections during normal business hours for at least the twelve
15 (12) working days before the election. A county board of elections may permit
16 in-person absentee voting to be conducted on a voting machine for a period
17 longer than the twelve (12) working days before the election.

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

- 23 1. Is a resident of Kentucky who is a covered voter as defined in KRS
24 117A.010, who will be absent from the county of his or her residence on
25 any election day;
- 26 2. Is a student who temporarily resides outside the county of his or her
27 residence;

- 1 3. Has surgery, or whose spouse has surgery, scheduled that will require
2 hospitalization on election day;
- 3 4. Temporarily resides outside the state, but is still eligible to vote in this
4 state and will be absent from the county of his or her residence on any
5 election day;
- 6 5. Is a resident of Kentucky who is a uniformed-service voter as defined in
7 KRS 117A.010 confined to a military base on election day, learns of that
8 confinement within seven (7) days or less of an election, and is not
9 eligible for a mail-in absentee ballot under this subsection;
- 10 6. Is in her last trimester of pregnancy at the time she wishes to vote under
11 this 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;
- 15 7. Has not been declared mentally disabled by a court of competent
16 jurisdiction and, on account of age, disability, or illness, is not able to
17 appear at the polls on election day; or
- 18 8. Is not permitted to vote by a mail-in absentee ballot under paragraph (a)
19 of this subsection, but who will be absent from the county of his or her
20 residence on election day.
- 21 (e) Voters who change their place of residence to a different state while the
22 registration books are closed in the new state of residence before a presidential
23 election shall be permitted to cast an in-person absentee ballot for President
24 and Vice President only, by making application in person to the county clerk
25 to vote on a voting machine in the county clerk's office or other place
26 designated by the county board of elections and approved by the State Board
27 of Elections, up to the close of normal business hours on the day before the

1 election.

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

21 (g) The members of the county board of elections or their designees who provide
22 equal representation of both political parties may serve as precinct election
23 officers, without compensation, for all in-person absentee voting performed
24 on a voting machine in the county clerk's office or other place designated by
25 the county board of elections and approved by the State Board of Elections. If
26 the members of the county board of elections or their designees serve as
27 precinct election officers for the in-person absentee voting, they shall perform

1 the same duties and exercise the same authority as precinct election officers
 2 who serve on the day of an election. If the members of the county board of
 3 elections or their designees do not serve as precinct election officers for in-
 4 person absentee voting, the county clerk or deputy county clerks shall
 5 supervise the in-person absentee voting.

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

12 (2) The county clerk shall type the name of the voter permitted to vote by mail-in
 13 absentee ballot on the mail-in absentee ballot application form for that person's use
 14 and no other. The mail-in absentee ballot application form shall:

15 (a) Be in the form prescribed by the State Board of Elections;~~[-, shall]~~

16 (b) Bear the seal of the county clerk;~~[-, and shall]~~

17 (c) Contain the following information:

18 1. ***The voter's*** name;~~[-,]~~

19 2. ***The voter's*** residential address;~~[-,]~~

20 3. ***The voter's*** precinct;~~[-,]~~

21 4. ***The voter's*** party affiliation, ***or the designated political party of the***
 22 ***primary ballot the voter has requested and is qualified to receive under***
 23 ***subsection (2) of Section 1 of this Act;***

24 5. ***A*** statement of the reason the person cannot vote in person on ***the day***
 25 ***set for the primary or on*** election day;~~[-,]~~

26 6. ***A*** statement of where the voter shall be on ***the day set for the primary or***
 27 ***on*** election day;~~[-,]~~

1 7. A statement of compliance with residency requirements for voting in the
2 precinct:~~[-,]~~ and

3 8. The voter's mailing address for a mail-in absentee ballot:~~[-. The mail-in~~
4 ~~absentee ballot application form shall]~~

5 (d) Be verified and signed by the voter; and~~[-]~~

6 (e) Contain a~~[-A]~~ notice of the actual penalty provisions in KRS 117.995(2) and
7 (5)~~[-shall be]~~ printed on the mail-in absentee ballot application form.

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

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

- 1 (5) The county clerk shall cause mail-in absentee ballots to be printed fifty (50) days
2 prior to each primary or regular election, and forty-five (45) days prior to a special
3 election.
- 4 (6) The outer envelope shall bear the words "Absentee Ballot" and the address and
5 official title of the county clerk and shall provide space for the voter's signature,
6 voting address, precinct number, and signatures of two (2) witnesses if the voter
7 signs the form with the use of a mark instead of the voter's signature. A detachable
8 flap on the inner envelope shall provide space for the voter's signature, voting
9 address, precinct number, signatures of two (2) witnesses if the voter signs the form
10 with the use of a mark instead of the voter's signature, and notice of penalty
11 provided in KRS 117.995(5). The county clerk shall type the voter's address and
12 precinct number in the upper left hand corner of the outer envelope and of the
13 detachable flap on the inner envelope immediately below the blank space for the
14 voter's signature. The inner envelope shall be blank. The county clerk shall retain
15 the mail-in ballot application form and the postal form required by subsection (3) of
16 this section for twenty-two (22) months after the election.
- 17 (7) Any person who has received a mail-in absentee ballot by mail but who knows at
18 least seven (7) days before the date of the election that he or she will be in his or her
19 county of residence on election day and who has not voted pursuant to the
20 provisions of KRS 117.086 shall cancel his or her mail-in absentee ballot and vote
21 in person. The voter shall return the mail-in absentee ballot to the county clerk's
22 office no later than seven (7) days prior to the date of the election. Upon the return
23 of the mail-in absentee ballot, the county clerk shall mark on the outer envelope of
24 the sealed ballot or the unmarked ballot the words "Canceled because voter
25 appeared to vote in person." Sealed envelopes so marked shall not be opened. The
26 county clerk shall remove the voter's name from the list of persons who were sent
27 mail-in absentee ballots, and the voter may vote in the precinct in which he or she is

1 properly registered.

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

12 (9) Any covered voter as defined in KRS 117A.010 who has received a mail-in
13 absentee ballot but who knows that he or she will be in the county on election day
14 and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his
15 or her mail-in absentee ballot and vote in person. The voter shall return the mail-in
16 absentee ballot to the county clerk's office on or before election day. Upon the
17 return of the mail-in absentee ballot, the county clerk shall mark on the outer
18 envelope of the sealed mail-in absentee ballot or the unmarked mail-in absentee
19 ballot the words "Canceled because voter appeared to vote in person." Sealed
20 envelopes so marked shall not be opened. If the covered voter is unable to return the
21 mail-in absentee ballot to the county clerk's office on or before election day, at the
22 time he or she votes in person, he or she shall sign a written oath as to his or her
23 qualifications on the form prescribed by the State Board of Elections pursuant to
24 KRS 117.245. The county clerk shall remove the voter's name from the list of
25 persons who were sent mail-in absentee ballots, provide the voter with written
26 authorization to vote at the precinct, and the voter may vote in the precinct in which
27 he or she is properly registered.

1 (10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS
 2 61.870 to 61.884, the information contained in an application for a mail-in absentee ballot
 3 shall not be made public until after the close of business hours on the election day for
 4 which the application applies. This subsection shall not prohibit at any time the
 5 disclosure, upon request, of the total number of applications for mail-in absentee ballots
 6 that have been filed, or the disclosure to the Secretary of State or the State Board of
 7 Elections, if requested or if otherwise required by law, of any information in an
 8 application for a mail-in absentee ballot.

9 ➔Section 3. KRS 117.125 is amended to read as follows:

10 No make of voting machine shall be approved for use unless it is so constructed that:

- 11 (1) It will insure secrecy to the voter in the act of voting.
- 12 (2) It provides facilities that will permit votes to be cast for any candidate entitled to
 13 have his or her name printed upon the ballots at any regular election, special
 14 election, or primary~~[election]~~, and for or against any public question entitled to be
 15 placed upon the ballots.
- 16 (3) It will, except at a primary~~[elections]~~, permit a voter to vote for all the candidates
 17 of one (1) party or for one (1) or more candidates of every party having candidates
 18 entitled to be voted for, or for one (1) or more independent candidates.
- 19 (4) It will permit a voter to vote for as many persons for an office as the voter~~[he]~~ is
 20 lawfully entitled to vote for, and no more.
- 21 (5) It will prevent a voter from voting for the same person, or for or against the same
 22 question, more than once.
- 23 (6) It will permit a voter to vote for or against any question the voter~~[he]~~ may have the
 24 right to vote on, but no other.
- 25 (7) It may be adjusted for use in a primary~~[elections]~~ so that a voter may not vote for
 26 any person except:
- 27 (a) Those seeking nomination as candidates of the voter's registered~~[his]~~ party or

1 selected party as provided under subsection (2) of Section 1 of this Act, or;

2 (b) Candidates for an office of the Court of Justice.

3 (8) It will correctly register and accurately count all votes cast for each person, and for
4 or against each public question.

5 (9) It can be determined whether the machine has been unlocked and operated after
6 once being locked.

7 (10) It will show at all times during an election or any primary how many persons have
8 voted by a device hereinafter referred to as a public counter.

9 (11) The counter indicating the number of votes cast for each person and for or against
10 each public question cannot be seen or tampered with without unlocking a covering
11 device that cannot be unlocked by a key that unlocks any other part of the machine.
12 When such counters are so exposed the machine can no longer be placed into
13 condition for operation without the use of a special key, which key shall not have
14 been in the possession of the election officers at the polling places; but if this
15 requirement has the effect of eliminating from consideration any other make of
16 machine such requirement shall not apply.

17 (12) The operating device and operating mechanism may be locked before the time for
18 opening the polls and after the time for closing the polls.

19 (13) It is accompanied by a mechanical model illustrating the manner of voting on the
20 machine, suitable for the instruction of voters.

21 (14) It will permit a voter to vote for all the candidates for presidential electors of any
22 party by one (1) operation.

23 (15) It will permit a voter to vote, in any regular or special election, for any person
24 desired to be voted for whose name does not appear upon the voting machine.

25 (16) It bears a number that will distinguish it from any other machine.

26 (17) The frames in which ballot labels are placed shall be constructed with transparent
27 protective devices, in order that the names thereon cannot be mutilated or altered.

1 ➔Section 4. KRS 117.381 is amended to read as follows:

2 No electronic voting system shall, upon any examination or reexamination, be approved
3 by the State Board of Elections unless it shall be established that such system, at the time
4 of examination or reexamination:

5 (1) Provides for voting in secrecy;

6 (2) Permits each voter to vote at any election for all candidates and questions for which
7 **the voter**~~[he]~~ is lawfully entitled to vote, and no others;

8 (3) Permits each voter, at the **regular**~~[general]~~ election to vote a straight political party
9 ticket by one (1) or more marks or acts;

10 (4) Provides a method for write-in voting;

11 (5) Provides for a nonpartisan ballot;

12 (6) If it is of a type that registers the vote electronically, the voting system shall
13 preclude each voter from voting for more persons for any office than **the voter**~~[he]~~
14 is entitled to vote for or upon any question more than once;

15 (7) Permits each voter at a primary~~[election]~~ to vote only for:

16 **(a)** The candidates seeking nomination by a political party in which such voter is
17 registered, **or as provided under subsection (2) of Section 1 of this Act;**

18 **(b)** ~~[and for]~~Any candidate for nonpartisan nomination;~~;~~ and

19 **(c)** ~~[for]~~Any question upon which **the voter**~~[he]~~ is entitled to vote;

20 (8) If it is of a type that registers the vote electronically, the voting system shall permit
21 each voter to change his **or her** vote for any candidate or upon any question
22 appearing on the official ballot up to the time that **the voter**~~[he]~~ takes the final step
23 to register his **or her** vote and to have his **or her** vote computed. If it is of a type
24 that uses paper ballots or ballot cards to register the vote and automatic tabulating
25 equipment to compute such votes, the system shall provide that a voter who spoils
26 his **or her** ballot may obtain another ballot;

27 (9) Is suitably designed for the purpose used, is constructed of a durable material, and is

- 1 safely transportable;
- 2 (10) Is so constructed that a voter may readily learn the method of operating it; and
- 3 (11) Meets or exceeds the standards for electronic voting equipment established by the
- 4 Federal Election Commission; and
- 5 (12) Provides for tabulating votes at the precinct in accordance with the requirements of
- 6 KRS 117.275.