

FIRST REGULAR SESSION

HOUSE BILL NO. 188

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CONWAY (10) (Sponsor), ELLINGER, SCHUPP, NEWMAN, ROORDA, KRATKY, MCDONALD, KELLY (45), HODGES, MONTECILLO, DUNN, ANDERS, MIMS, MAYFIELD, MCNEIL, WALTON GRAY, OTTO, ENGLUND, MCCANN BEATTY, HUMMEL AND KIRKTON (Co-sponsors).

0838L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.277, 115.279, and 115.283, RSMo, and to enact in lieu thereof three new sections relating to absentee voting, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.277, 115.279, and 115.283, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 115.277, 115.279, and 115.283, to read as follows:

115.277. 1. Except as provided in subsections 3, 4 and 5 of this section, any registered voter of this state may vote by absentee ballot for all candidates and issues for which such voter [would be] **is** eligible to vote at the polling place [if such voter expects to be prevented from going to the polls to vote on election day due to:

(1) Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;

(2) Incapacity or confinement due to illness or physical disability, including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability;

(3) Religious belief or practice;

(4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place;

(5) Incarceration, provided all qualifications for voting are retained].

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 2. Any person in federal service, as defined in section 115.275, who is eligible to register
15 and vote in this state but is not registered may vote only in the election of presidential and vice
16 presidential electors, United States senator and representative in Congress even though the
17 person is not registered. Each person in federal service may vote by absentee ballot or, upon
18 submitting an affidavit that the person is qualified to vote in the election, may vote at the person's
19 polling place.

20 3. Any interstate former resident, as defined in section 115.275, may vote by absentee
21 ballot for presidential and vice presidential electors.

22 4. Any intrastate new resident, as defined in section 115.275, may vote by absentee ballot
23 at the election for presidential and vice presidential electors, United States senator, representative
24 in Congress, statewide elected officials and statewide questions, propositions and amendments
25 from such resident's new jurisdiction of residence after registering to vote in such resident's new
26 jurisdiction of residence.

27 5. Any new resident, as defined in section 115.275, may vote by absentee ballot for
28 presidential and vice presidential electors after registering to vote in such resident's new
29 jurisdiction of residence.

 115.279. 1. Application for an absentee ballot may be made by the applicant in person,
2 or by mail, or for the applicant, in person, by his or her guardian or a relative within the second
3 degree by consanguinity or affinity. The election authority shall accept applications by facsimile
4 transmission within the limits of its telecommunications capacity.

5 2. Each application shall be made to the election authority of the jurisdiction in which
6 the person is or would be registered. Each application shall be in writing and shall state the
7 applicant's name, address at which he or she is or would be registered, [his or her reason for
8 voting an absentee ballot,] the address to which the ballot is to be mailed, if mailing is requested,
9 and for absent uniformed services and overseas applicants, the applicant's email address if
10 electronic transmission is requested. Each application to vote in a primary election shall also
11 state which ballot the applicant wishes to receive. If any application fails to designate a ballot,
12 the election authority shall, within three working days after receiving the application, notify the
13 applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates
14 which political party ballot he or she wishes to receive. If the applicant does not respond to the
15 request for political party designation, the election authority is authorized to provide the voter
16 with that part of the ballot for which no political party designation is required.

17 3. Except as provided in subsection 3 of section 115.281, all applications for absentee
18 ballots received prior to the sixth Tuesday before an election shall be stored at the office of the
19 election authority until such time as the applications are processed in accordance with section
20 115.281. No application for an absentee ballot received in the office of the election authority by

21 mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday
22 immediately prior to the election shall be accepted by any election authority. No application for
23 an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the
24 election shall be accepted by any election authority, except as provided in subsections 6, 8 and
25 9 of this section.

26 4. Each application for an absentee ballot shall be signed by the applicant or, if the
27 application is made by a guardian or relative pursuant to this section, the application shall be
28 signed by the guardian or relative, who shall note on the application his or her relationship to the
29 applicant. If an applicant, guardian or relative is blind, unable to read or write the English
30 language or physically incapable of signing the application, he or she shall sign by mark,
31 witnessed by the signature of an election official or person of his or her own choosing. Any
32 person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be
33 guilty of a class one election offense.

34 5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who
35 resides outside the boundaries of the United States or who is on active duty with the armed forces
36 of the United States or members of their immediate family living with them may request an
37 absentee ballot for both the primary and subsequent general election with one application.

38 (2) The election authority shall provide each absent uniformed services voter and each
39 overseas voter who submits a voter registration application or an absentee ballot request, if the
40 election authority rejects the application or request, with the reasons for the rejection.

41 (3) Notwithstanding any other law to the contrary, if a standard oath regarding material
42 misstatements of fact is adopted for uniformed and overseas voters pursuant to the Help America
43 Vote Act of 2002, the election authority shall accept such oath for voter registration, absentee
44 ballot, or other election-related materials.

45 (4) Not later than sixty days after the date of each regularly scheduled general election
46 for federal office, each election authority which administered the election shall submit to the
47 secretary of state in a format prescribed by the secretary a report on the combined number of
48 absentee ballots transmitted to, and returned by, absent uniformed services voters and overseas
49 voters for the election. The secretary shall submit to the Election Assistance Commission a
50 combined report of such information not later than ninety days after the date of each regularly
51 scheduled general election for federal office and in a standardized format developed by the
52 commission pursuant to the Help America Vote Act of 2002. The secretary shall make the report
53 available to the general public.

54 (5) As used in this section, the terms "absent uniformed services voter" and "overseas
55 voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

56 6. An application for an absentee ballot by a new resident, as defined in section 115.275,
 57 shall be submitted in person by the applicant in the office of the election authority in the election
 58 jurisdiction in which such applicant resides. The application shall be received by the election
 59 authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form
 60 of an affidavit, executed in duplicate in the presence of the election authority or any authorized
 61 officer of the election authority, and in substantially the following form:

62

63 STATE OF..... COUNTY OF....., ss.

64 I,....., do solemnly swear that:

65 (1) Before becoming a resident of this state, I resided at
 66 (residence address) in (town, township,
 67 village or city) of County in the state of

68 (2) I moved to this state after the last day to register to vote in such general presidential
 69 election and I am now residing in the county of, state of Missouri;

70 (3) I believe I am entitled pursuant to the laws of this state to vote in the presidential
 71 election to be held November, (year);

72 (4) I hereby make application for a presidential and vice presidential ballot. I have not
 73 voted and shall not vote other than by this ballot at such election.

74 Signed

75 (Applicant)

76

77 (Residence Address)

78 Subscribed and sworn to before me this day of,

79 Signed

80 (Title and name of officer authorized to administer oaths)

81 7. The election authority in whose office an application is filed pursuant to subsection
 82 6 of this section shall immediately send a duplicate of such application to the appropriate official
 83 of the state in which the new resident applicant last resided and shall file the original of such
 84 application in its office.

85 8. An application for an absentee ballot by an intrastate new resident, as defined in
 86 section 115.275, shall be made in person by the applicant in the office of the election authority
 87 in the election jurisdiction in which such applicant resides. The application shall be received by
 88 the election authority no later than 7:00 p.m. on the day of the election. Such application shall
 89 be in the form of an affidavit, executed in duplicate in the presence of the election authority or
 90 an authorized officer of the election authority, and in substantially the following form:

91

92 STATE OF COUNTY OF, ss.

93 I,, do solemnly swear that:

94 (1) Before becoming a resident of this election jurisdiction, I resided at
95 (residence address) in (town, township, village or city)
96 of county in the state of

97 (2) I moved to this election jurisdiction after the last day to register to vote in such
98 election;

99 (3) I believe I am entitled pursuant to the laws of this state to vote in the election to be
100 held (date);

101 (4) I hereby make application for an absentee ballot for candidates and issues on which
102 I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other
103 than by this ballot at such election.

104 Signed

105 (Applicant)

106

107 (Residence Address)

108 Subscribed and sworn to before me this day of,

109 Signed

110 (Title and name of officer authorized to administer oaths)

111 9. An application for an absentee ballot by an interstate former resident, as defined in
112 section 115.275, shall be received in the office of the election authority where the applicant was
113 formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the
114 application is made in person by the applicant in the office of the election authority, in which
115 case such application shall be made no later than 7:00 p.m. on the day of the election.

115.283. 1. Each ballot envelope shall bear a statement on which the voter shall state
2 the voter's name, the voter's voting address, **and** the voter's mailing address [and the voter's
3 reason for voting an absentee ballot]. On the form, the voter shall also state under penalties of
4 perjury that the voter is qualified to vote in the election, that the voter has not previously voted
5 and will not vote again in the election, that the voter has personally marked the voter's ballot in
6 secret or supervised the marking of the voter's ballot if the voter is unable to mark it, that the
7 ballot has been placed in the ballot envelope and sealed by the voter or under the voter's
8 supervision if the voter is unable to seal it, and that all information contained in the statement
9 is true. In addition, any person providing assistance to the absentee voter shall include a
10 statement on the envelope identifying the person providing assistance under penalties of perjury.
11 Persons authorized to vote only for federal and statewide officers shall also state their former
12 Missouri residence.

13 2. The statement for persons voting absentee ballots who are registered voters shall be
14 in substantially the following form:

15

16 State of Missouri County (City) of

17 I, (print name), a registered voter of

18 County (City of St. Louis, Kansas City), declare under the penalties of perjury [that I expect to
19 be prevented from going to the polls on election day due to (check one):

20 absence on election day from the jurisdiction of the election authority in which I am
21 registered;

22 incapacity or confinement due to illness or physical disability, including caring for a
23 person who is incapacitated or confined due to illness or disability;

24 religious belief or practice;

25 employment as an election authority or by an election authority at a location other than my
26 polling place;

27 incarceration, although I have retained all the necessary qualifications for voting.

28

29 I hereby state under penalties of perjury] that I am qualified to vote at this election; I have not
30 voted and will not vote other than by this ballot at this election. I further state that I marked the
31 enclosed ballot in secret or that I am blind, unable to read or write English, or physically
32 incapable of marking the ballot, and the person of my choosing indicated below marked the
33 ballot at my direction; all of the information on this statement is, to the best of my knowledge
34 and belief, true.

35

36 Signature of Voter

.....

Signature of Person

37

Assisting Voter

38

(if applicable)

39 Signed

Subscribed and sworn to

40 Signed

before me this day

41 Address of Voter

of,

42

.....

43

44 Mailing addresses

Signature of notary or

45 if different)

other officer authorized

46

to administer oaths

47 3. The statement for persons voting absentee ballots pursuant to the provisions of
48 subsection 2, 3, 4 or 5 of section 115.277 without being registered shall be in substantially the
49 following form:

50

51 State of Missouri County (City) of

52 I, (print name), declare under the penalties of perjury that I am a citizen of the
53 United States and eighteen years of age or older. I am not adjudged incapacitated by any court
54 of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of
55 suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to
56 law. I hereby state under penalties of perjury that I am qualified to vote at this election.

57 (1) I am a resident of the state of Missouri and (check one):

58 am a member of the U.S. armed forces in active
59 service;

60 am an active member of the U.S. merchant marine;

61 am a civilian employee of the U.S. government working outside the United States;

62 am an active member of a religious or welfare organization assisting servicemen;

63 have been honorably discharged or terminated my service in one of the groups mentioned
64 above within sixty days of this election;

65 am a spouse or dependent of one of the above;

66 am a registered voter in County and
67 moved from that county to County,
68 Missouri, after the last day to register to vote in
69 this election.

70 OR (check if applicable)

71 (2) I am an interstate former resident of Missouri and authorized to vote
72 for presidential and vice presidential electors. I further state under penalties of perjury that I
73 have not voted and will not vote other than by this ballot at this election; I marked the enclosed
74 ballot in secret or am blind, unable to read or write English, or physically incapable of marking
75 the ballot, and the person of my choosing indicated below marked the ballot at my direction; all
76 of the information on this statement is, to the best of my knowledge and belief, true.

77 Subscribed to and sworn
78 Signature of Voter before me this day
79 of,

80

81

82 Address of Voter Signature of notary or

83		other officer authorized
84		to administer oaths
85
86	Mailing Address (if different)
87	
88
89	Signature of Person	Address of Last Assisting Voter
90		Missouri Residence
91		(if applicable)

92 4. The statement for persons voting absentee ballots who are entitled to vote at the
 93 election pursuant to the provisions of subsection 2 of section 115.137 shall be in substantially
 94 the following form:

95
 96 State of Missouri County (City) of

97 I, (print name), declare under the penalties of perjury [that I expect to
 98 be prevented from going to the polls on election day due to (check one):

99 absence on election day from the jurisdiction of the
 100 election authority in which I am directed to
 101 vote;

102 incapacity or confinement due to illness or physical
 103 disability, including caring for a person who is
 104 incapacitated or confined due to illness or
 105 disability;

106 religious belief or practice;

107 employment as an election authority or by an
 108 election authority at a location other than my
 109 polling place;

110 incarceration, although I have retained all the
 111 necessary qualifications of voting.

112

113 I hereby state under penalties of perjury] that I own property in the district and am
 114 qualified to vote at this election; I have not voted and will not vote other than by this ballot at
 115 this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable
 116 to read and write English, or physically incapable of marking the ballot, and the person of my
 117 choosing indicated below marked the ballot at my direction; all of the information on this
 118 statement is, to the best of my knowledge and belief, true.

119 Subscribed and sworn to
 120 Signature of Voter before me this
 121 day of,
 122
 123
 124 Address Signature of notary or
 125 other officer authorized
 126 to administer oaths
 127

128 Signature of Person
 129 Assisting Voter
 130 (if applicable)

131 5. The statement for persons providing assistance to absentee voters shall be in
 132 substantially the following form: The voter needed assistance in marking the ballot and signing
 133 above, because of blindness, other physical disability, or inability to read or to read English. I
 134 marked the ballot enclosed in this envelope at the voter's direction, when I was alone with the
 135 voter, and I had no other communication with the voter as to how he or she was to vote. The
 136 voter swore or affirmed the voter affidavit above and I then signed the voter's name and
 137 completed the other voter information above. Signed under the penalties of perjury.

138
 139 Reason why voter needed assistance:
 140 ASSISTING PERSON SIGN HERE

- 141 1. (signature of assisting person)
- 142 2. (assisting person's name printed)
- 143 3. (assisting person's residence)
- 144 4. (assisting person's home city or town).

145 6. Notwithstanding any other provision of this section, any resident of the state of
 146 Missouri who resides outside the boundaries of the United States or who is on active duty with
 147 the armed forces of the United States or members of their immediate family living with them or
 148 persons who have declared themselves to be permanently disabled pursuant to section 115.284,
 149 otherwise entitled to vote, shall not be required to obtain a notary seal or signature on his or her
 150 absentee ballot.

151 7. Notwithstanding any other provision of this section or section 115.291 to the contrary,
 152 the subscription, signature and seal of a notary or other officer authorized to administer oaths
 153 shall not be required on any ballot, ballot envelope, or statement required by this section if the

154 reason for the voter voting absentee is due to the reasons established pursuant to subdivision (2)
155 of subsection 1 of section 115.277.

156 8. No notary shall charge or collect a fee for notarizing the signature on any absentee
157 ballot or absentee voter registration.

158 9. A notary public who charges more than the maximum fee specified or who charges
159 or collects a fee for notarizing the signature on any absentee ballot or absentee voter registration
160 is guilty of official misconduct.

✓