

FIRST REGULAR SESSION

HOUSE BILL NO. 117

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEEKEN (Sponsor) AND PAGE (Co-sponsor).

Pre-filed December 20, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0490L.011

AN ACT

To repeal sections 115.277 and 115.291, RSMo, and to enact in lieu thereof two new sections relating to voting by absentee ballot.

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

Section A. Sections 115.277 and 115.291, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 115.277 and 115.291, to read as follows:

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

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

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

10 (3) Religious belief or practice;

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

13 (5) Incarceration, provided all qualifications for voting are retained;

14 **(6) Being under the protection of a protective order issued by a court of competent**
15 **jurisdiction.**

16 2. Any person in federal service, as defined in section 115.275, who is eligible to register

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.

17 and vote in this state but is not registered may vote only in the election of presidential and vice
18 presidential electors, United States senator and representative in Congress even though the
19 person is not registered. Each person in federal service may vote by absentee ballot or, upon
20 submitting an affidavit that the person is qualified to vote in the election, may vote at the person's
21 polling place.

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

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

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

115.291. 1. Upon receiving an absentee ballot, the voter shall mark the ballot in secret,
2 place the ballot in the ballot envelope, seal the envelope and fill out the statement on the ballot
3 envelope. The affidavit of each person voting an absentee ballot shall be subscribed and sworn
4 to before the election official receiving the ballot, a notary public or other officer authorized by
5 law to administer oaths, unless the voter is voting absentee due to incapacity or confinement due
6 to the provisions of section 115.284, illness or physical disability. If the voter is blind, unable
7 to read or write the English language, or physically incapable of voting the ballot, the voter may
8 be assisted by a person of the voter's own choosing. Any person assisting a voter who is not
9 entitled to such assistance, and any person who assists a voter and in any manner coerces or
10 initiates a request or a suggestion that the voter vote for or against or refrain from voting on any
11 question, ticket or candidate, shall be guilty of a class one election offense. If, upon counting,
12 challenge or election contest, it is ascertained that any absentee ballot was voted with unlawful
13 assistance, the ballot shall be rejected.

14 2. Each absentee ballot shall be returned to the election authority in the ballot envelope
15 and shall only be returned by the voter in person, or in person by a relative of the voter who is
16 within the second degree of consanguinity or affinity, **or by a caretaker of the voter**, by mail
17 or registered carrier or by a team of deputy election authorities; except that persons in federal
18 service, when sent from a location determined by the secretary of state to be inaccessible on
19 election day, shall be allowed to return their absentee ballots cast by use of facsimile
20 transmission or under a program approved by the Department of Defense for electronic
21 transmission of election materials.

22 3. In cases of an emergency declared by the President of the United States or the
23 governor of this state where the conduct of an election may be affected, the secretary of state may
24 provide for the delivery and return of absentee ballots by use of a facsimile transmission device
25 or system. Any rule promulgated pursuant to this subsection shall apply to a class or classes of
26 voters as provided for by the secretary of state.

27 **4. As used in this section, a "caretaker" means a person with responsibility for the**
28 **physical care of another individual, which responsibility may arise as the result of family**
29 **relationship, by a fiduciary duty imposed by law, or by a voluntary or contractual duty**
30 **undertaken on behalf of such individual.**