

SECOND REGULAR SESSION

# HOUSE BILL NO. 2087

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ZIMMERMAN (Sponsor), ZWEIFEL, GEORGE, FALLERT, ROORDA, SCHOEMEHL, DARROUGH, LeVOTA, SKAGGS, WITTE, SWINGER, HUGHES, FLOOK, PAGE, NORR, LAMPE, MEINERS, HUBBARD, MUSCHANY, GRILL, OXFORD, DAUS, SCHIEFFER, HARRIS (110), VILLA, NASHEED, LOW (39) AND YAEGER (Co-sponsors).

Read 1st time February 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3203L.01I

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### 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.

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*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Section A. Sections 115.277, 115.279, and 115.283, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 115.277, 115.279, and 115.283, to read  
3 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] **is** eligible to vote at the polling place [if such voter expects to be prevented from  
4 going 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;

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.

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

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] and the address to which the ballot is to be mailed, if mailing is  
9 requested. Each application to vote in a primary election shall also state which ballot the  
10 applicant wishes to receive. If any application fails to designate a ballot, the election authority  
11 shall, within three working days after receiving the application, notify the applicant by mail that  
12 it will be unable to deliver an absentee ballot until the applicant designates which political party  
13 ballot he or she wishes to receive. If the applicant does not respond to the request for political  
14 party designation, the election authority is authorized to provide the voter with that part of the  
15 ballot for which no political party designation is required.

16 3. All applications for absentee ballots received prior to the sixth Tuesday before an  
17 election shall be stored at the office of the election authority until such time as the applications  
18 are processed in accordance with section 115.281. No application for an absentee ballot received  
19 in the office of the election authority by mail, by facsimile transmission or by a guardian or

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

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

32 5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who  
33 resides outside the boundaries of the United States or who is on active duty with the armed forces  
34 of the United States or members of their immediate family living with them may request an  
35 absentee ballot for both the primary and subsequent general election with one application. In  
36 addition, the election authority shall provide to each absent uniformed services voter and each  
37 overseas voter who submits an absentee ballot request an absentee ballot through the next two  
38 regularly scheduled general elections for federal office.

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

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

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

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

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

63 "STATE OF.....

64 COUNTY OF....., ss.

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

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

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

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

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

75 Signed .....

76 (Applicant)

77 .....

78 (Residence Address)

79 Subscribed and sworn to before me this ..... day of

80 ....., .....

81 Signed .....

82 (Title and name of officer authorized to administer oaths)"

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

87 8. An application for an absentee ballot by an intrastate new resident, as defined in  
88 section 115.275, shall be made in person by the applicant in the office of the election authority  
89 in the election jurisdiction in which such applicant resides. The application shall be received by  
90 the election authority no later than 7:00 p.m. on the day of the election. Such application shall

91 be in the form of an affidavit, executed in duplicate in the presence of the election authority or  
92 an authorized officer of the election authority, and in substantially the following form:

93 "STATE OF .....

94 COUNTY OF ....., ss.

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

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

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

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

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

106 Signed .....

107 (Applicant)

108 .....

109 (Residence Address)

110 Subscribed and sworn to before me this ..... day of ....., .....

111 Signed .....

112 (Title and name of officer authorized to administer oaths)"

113 9. An application for an absentee ballot by an interstate former resident, as defined in  
114 section 115.275, shall be received in the office of the election authority where the applicant was  
115 formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the  
116 application is made in person by the applicant in the office of the election authority, in which  
117 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, the voter's mailing address and the voter's reason for  
3 voting an absentee ballot. On the form, the voter shall also state under penalties of perjury that  
4 the voter is qualified to vote in the election, that the voter has not previously voted and will not  
5 vote again in the election, that the voter has personally marked the voter's ballot in secret or  
6 supervised the marking of the voter's ballot if the voter is unable to mark it, that the ballot has  
7 been placed in the ballot envelope and sealed by the voter or under the voter's supervision if the  
8 voter is unable to seal it, and that all information contained in the statement is true. In addition,  
9 any person providing assistance to the absentee voter shall include a statement on the envelope

10 identifying the person providing assistance under penalties of perjury. Persons authorized to vote  
 11 only for federal and statewide officers shall also state their former Missouri residence.

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

14 State of Missouri

15 County (City) of .....

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

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

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

25 ..... religious belief or practice;

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

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

31

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

38 .....

39 Signature of Voter

40

41

42 Signed .....

43 Signed .....

44 Address of Voter

45 .....

.....

Signature of Person

Assisting Voter

(if applicable)

Subscribed and sworn to

before me this ..... day

of ....., .....

.....

46 .....  
47 Mailing addresses                      Signature of notary or  
48 (if different)                      other officer authorized  
49                      to administer oaths

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

53 State of Missouri

54 County (City) of .....

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

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

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

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

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

65 ..... am an active member of a religious or welfare  
66 organization assisting servicemen;

67 ..... have been honorably discharged or terminated my service  
68 in one of the groups mentioned above within sixty days  
69 of this election;

70 ..... am a spouse or dependent of one of the above;

71 ..... am a registered voter in ..... County and  
72 moved from that county to ..... County,  
73 Missouri, after the last day to register to vote in  
74 this election.

75

76 OR (check if applicable)

77            (2) ..... I am an interstate former resident of Missouri and authorized to vote  
78 for presidential and vice presidential electors. I further state under penalties of perjury that I  
79 have not voted and will not vote other than by this ballot at this election; I marked the enclosed  
80 ballot in secret or am blind, unable to read or write English, or physically incapable of marking

81 the ballot, and the person of my choosing indicated below marked the ballot at my direction; all  
 82 of the information on this statement is, to the best of my knowledge and belief, true.

83 ..... Subscribed to and sworn  
 84 Signature of Voter before me this ..... day  
 85 of ....., .....

86 .....  
 87 ..... .....

88 Address of Voter Signature of notary or  
 89 other officer authorized  
 90 to administer oaths

91 .....  
 92 .....

93 Mailing Address  
 94 (if different) .....  
 95 .....  
 96 ..... .....

97 Signature of Person Address of Last Missouri  
 98 Assisting Voter Residence (if applicable)

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

102 State of Missouri  
 103 County (City) of .....

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

106 ..... absence on election day from the jurisdiction of the  
 107 election authority in which I am directed to vote;  
 108 ..... incapacity or confinement due to illness or physical  
 109 disability, including caring for a person who is  
 110 incapacitated or confined due to illness or disability;  
 111 ..... religious belief or practice;  
 112 ..... employment as an election authority or by an election  
 113 authority at a location other than my polling place;  
 114 ..... incarceration, although I have retained all the  
 115 necessary qualifications of voting.

116



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

123 ..... Subscribed and sworn to  
 124 Signature of Voter before me this .....  
 125 day of ....., .....

126 .....  
 127 .....  
 128 Address Signature of notary or  
 129 other officer authorized  
 130 to administer oaths

131 .....  
 132 Signature of Person  
 133 Assisting Voter  
 134 (if applicable)

135 5. The statement for persons providing assistance to absentee voters shall be in  
 136 substantially the following form:

137  
 138 The voter needed assistance in marking the ballot and signing above, because of blindness, other  
 139 physical disability, or inability to read or to read English. I marked the ballot enclosed in this  
 140 envelope at the voter's direction, when I was alone with the voter, and I had no other  
 141 communication with the voter as to how he or she was to vote. The voter swore or affirmed the  
 142 voter affidavit above and I then signed the voter's name and completed the other voter  
 143 information above. Signed under the penalties of perjury.

144 Reason why voter needed assistance: .....

145 ASSISTING PERSON SIGN HERE

- 146 1. .... (signature of assisting person)
- 147 2. .... (assisting person's name printed)
- 148 3. .... (assisting person's residence)
- 149 4. .... (assisting person's home city or town).

150 6. Notwithstanding any other provision of this section, any resident of the state of  
 151 Missouri who resides outside the boundaries of the United States or who is on active duty with  
 152 the armed forces of the United States or members of their immediate family living with them or

153 persons who have declared themselves to be permanently disabled pursuant to section 115.284,  
154 otherwise entitled to vote, shall not be required to obtain a notary seal or signature on his or her  
155 absentee ballot.

156 7. Notwithstanding any other provision of this section or section 115.291 to the contrary,  
157 the subscription, signature and seal of a notary or other officer authorized to administer oaths  
158 shall not be required on any ballot, ballot envelope, or statement required by this section if the  
159 reason for the voter voting absentee is due to the reasons established pursuant to subdivision (2)  
160 of subsection 1 of section 115.277.

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

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

✓