

SECOND REGULAR SESSION

HOUSE BILL NO. 1839

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ZIMMERMAN (Sponsor), SATER, ATKINS, COLONA, CORCORAN, ENGLUND, FALLERT, GRILL, HARRIS, JONES (63), McNEIL, MORRIS, OXFORD, PACE, ROORDA, SCHIEFFER, SCHUPP, SPRENG, STORCH, WALTON GRAY, YAEGER, KUESSNER, KELLY, SKAGGS, HUMMEL AND RUCKER (Co-sponsors).

3824L.01I

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.

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Section A. Sections 115.277, 115.279, and 115.283, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 115.277, 115.279, and 115.283, to read as follows: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

46

47 Mailing addresses

.....

Signature of Person

Assisting Voter

(if applicable)

Subscribed and sworn to

before me this day

of,

.....

.....

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.

✓