

SECOND REGULAR SESSION

# HOUSE BILL NO. 1579

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WEBBER (Sponsor), KANDER AND COLONA (Co-sponsors).

4039L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 115.279, 115.281, 115.287, 115.291, and 115.292, RSMo, and to enact in lieu thereof seven new sections relating to uniformed and overseas voters.

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

Section A. Sections 115.279, 115.281, 115.287, 115.291, and 115.292, RSMo, are  
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 115.156,  
3 115.278, 115.279, 115.281, 115.287, 115.291, and 115.292, to read as follows:

**115.156. 1. The secretary of state shall establish procedures for absent uniformed  
2 services voters and overseas voters, as defined in Title 42, U.S.C. Section 1973ff-6, as  
3 amended, to request, by mail or electronically, that voter registration applications be sent  
4 to the voter, and to request that such voter registration applications be sent by mail or  
5 electronically in the preferred method of transmission designated by the voter. The  
6 secretary of state shall designate not less than one means of electronic communication for  
7 use by absent uniformed services voters and overseas voters to request voter registration  
8 applications and to send such voter registration applications.**

**9 2. No election authority shall refuse to accept and process any otherwise valid voter  
10 registration application submitted by an absent uniformed services voter or an overseas  
11 voter solely on the basis of restrictions on paper type.**

**115.278. The secretary of state shall establish procedures for absent uniformed  
2 services voters and overseas voters, as defined in Title 42, U.S.C. Section 1973ff-6, as  
3 amended, to request, by mail or electronically, that absentee ballot applications be sent to  
4 the voter, and to request that such absentee ballot applications be sent by mail or  
5 electronically in the preferred method of transmission designated by the voter. The**

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.

6 **secretary of state shall designate not less than one means of electronic communication for**  
7 **use by absent uniformed services voters and overseas voters to request absentee ballot**  
8 **applications, to send such absentee ballot applications, and to provide related voting,**  
9 **balloting, and election information to such voters.**

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, **and for absent uniformed services and overseas applicants, the applicant's email**  
10 **address if electronic transmission is requested.** Each application to vote in a primary election  
11 shall also state which ballot the applicant wishes to receive. If any application fails to designate  
12 a ballot, the election authority shall, within three working days after receiving the application,  
13 notify the applicant by mail that it will be unable to deliver an absentee ballot until the applicant  
14 designates which political party ballot he or she wishes to receive. If the applicant does not  
15 respond to the request for political party designation, the election authority is authorized to  
16 provide the voter 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. [In  
38 addition, the election authority shall provide to each absent uniformed services voter and each  
39 overseas voter who submits an absentee ballot request an absentee ballot through the next two  
40 regularly scheduled general elections for federal office.]

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

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

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

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

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

65 "STATE OF.....

66 COUNTY OF....., ss.

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

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

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

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

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

77       Signed .....

78       (Applicant)

79       .....

80       (Residence Address)

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

82       ....., .....

83       Signed .....

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

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

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

95 "STATE OF .....

96 COUNTY OF ....., ss.

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

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

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

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

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

108 Signed .....

109 (Applicant)

110 .....

111 (Residence Address)

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

113 Signed .....

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

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

115.281. 1. **Except as provided in subsection 3 of this section**, not later than the sixth  
2 Tuesday prior to each election, or within fourteen days after candidates' names or questions are  
3 certified pursuant to section 115.125, the election authority shall cause to have printed and made  
4 available a sufficient quantity of absentee ballots, ballot envelopes and mailing envelopes. As  
5 soon as possible after the proper officer calls a special state or county election, the election  
6 authority shall cause to have printed and made available a sufficient quantity of absentee ballots,  
7 ballot envelopes and mailing envelopes.

8 2. All absentee ballots for an election shall be in the same form as the official ballots for  
9 the election, except that in lieu of the words "Official Ballot" at the top of the ballot, the words  
10 "Official Absentee Ballot" shall appear.

11 **3. Not later than forty-five days before each general, primary, and special election**  
12 **for federal office, the election authority shall cause to have printed and made available a**  
13 **sufficient quantity of absentee ballots, ballot envelopes, and mailing envelopes for absent**  
14 **uniformed services voters and overseas voters.**

115.287. 1. Upon receipt of a signed application for an absentee ballot and if satisfied  
2 the applicant is entitled to vote by absentee ballot, the election authority shall, within three  
3 working days after receiving the application, or if absentee ballots are not available at the time  
4 the application is received, within five working days after they become available, deliver to the  
5 voter an absentee ballot, ballot envelope and such instructions as are necessary for the applicant

6 to vote. Delivery shall be made to the voter personally in the office of the election authority or  
7 by bipartisan teams appointed by the election authority, or by first class, registered, or certified  
8 mail at the discretion of the election authority, **or in the case of absent uniformed services**  
9 **voters and overseas voters, by electronic transmission if electronic transmission is**  
10 **requested by the voter.** Where the election authority is a county clerk, the members of  
11 bipartisan teams representing the political party other than that of county clerk shall be selected  
12 from a list of persons submitted to the county clerk by the county chairman of that party. If no  
13 list is provided by the time that absentee ballots are to be made available, the county clerk may  
14 select a person or persons from lists provided in accordance with section 115.087. If the election  
15 authority is not satisfied that any applicant is entitled to vote by absentee ballot, it shall not  
16 deliver an absentee ballot to the applicant. Within three working days of receiving such an  
17 application, the election authority shall notify the applicant and state the reason he or she is not  
18 entitled to vote by absentee ballot. The applicant may appeal the decision of the election  
19 authority to the circuit court in the manner provided in section 115.223.

20       2. If, after 5:00 p.m. on the Wednesday before an election, any voter from the jurisdiction  
21 has become hospitalized, becomes confined due to illness or injury, or is confined in an adult  
22 boarding facility, intermediate care facility, residential care facility, or skilled nursing facility,  
23 as defined in section 198.006, RSMo, in the county in which the jurisdiction is located or in the  
24 jurisdiction or an adjacent election authority within the same county, the election authority shall  
25 appoint a team to deliver, witness the signing of and return the voter's application and deliver,  
26 witness the voting of and return the voter's absentee ballot. In counties with a charter form of  
27 government and in cities not within a county, and in each city which has over three hundred  
28 thousand inhabitants, and is situated in more than one county, if the election authority receives  
29 ten or more applications for absentee ballots from the same address it may appoint a team to  
30 deliver and witness the voting and return of absentee ballots by voters residing at that address,  
31 except when such addresses are for an apartment building or other structure wherein individual  
32 living units are located, each of which has its own separate cooking facilities. Each team  
33 appointed pursuant to this subsection shall consist of two registered voters, one from each major  
34 political party. Both members of any team appointed pursuant to this subsection shall be present  
35 during the delivery, signing or voting and return of any application or absentee ballot signed or  
36 voted pursuant to this subsection.

37       3. On the mailing and ballot envelopes for each applicant in federal service, the election  
38 authority shall stamp prominently in black the words "FEDERAL BALLOT, STATE OF  
39 MISSOURI" and "U.S. Postage Paid, 39 U.S.C. 3406".

40       4. No information which encourages a vote for or against a candidate or issue shall be  
41 provided to any voter with an absentee ballot.

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

15       2. **Except as provided in subsection 4 of this section**, each absentee ballot shall be  
16 returned to the election authority in the ballot envelope and shall only be returned by the voter  
17 in person, or in person by a relative of the voter who is within the second degree of consanguinity  
18 or affinity, by mail or registered carrier or by a team of deputy election authorities; except that  
19 persons in federal service, when sent from a location determined by the secretary of state to be  
20 inaccessible on election day, shall be allowed to return their absentee ballots cast by use of  
21 facsimile transmission or under a program approved by the Department of Defense for electronic  
22 transmission of election materials.

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

28       4. **No election authority shall refuse to accept and process any otherwise valid**  
29 **marked absentee ballot submitted in any manner by an absent uniformed services voter**  
30 **or overseas voter solely on the basis of restrictions on envelope type.**

31       5. **As provided in the Military and Overseas Voter Empowerment Act (42 U.S.C.**  
32 **1973ff et seq.), as amended, the secretary of state shall, in coordination with local election**  
33 **authorities, develop a free access system by which an absent uniformed services voter or**  
34 **overseas voter may determine whether the voter's absentee ballot has been received by the**  
35 **appropriate election authority.**

115.292. 1. Notwithstanding any other provision of this chapter, a qualified absentee voter, as described in subsection 3 of this section, may apply for a special write-in absentee ballot within eighty days of a special, primary, or general election for federal office. Such a ballot shall be for voting for all offices being contested at such election.

2. A qualified absentee voter applying for a special write-in absentee ballot pursuant to this section shall apply to the local election authority of the area which contains his last residence in this state for such ballot. The application for a special write-in absentee ballot may be made on the federal postcard application form, by letter, or on a form provided by the local election authority.

3. [In order to qualify for a special write-in absentee ballot, the voter shall state that he is unable to vote by any other means due to requirements of military service or due to living in isolated or extremely remote areas of the world. This statement may be made by federal postcard application, by letter, or on a form prepared by the local election authority.

4.] Upon receipt of the application, the election authority shall issue a special write-in absentee ballot. Such ballot shall permit the voter to cast a ballot by writing in a party preference for each office, the names of specific candidates, or the names of persons whom the voter prefers.

[5.] 4. The election authority shall issue a regular absentee ballot as soon as such ballots are available. If both the regular absentee ballot and the special write-in absentee ballot are returned, the regular absentee ballot shall be counted and the special write-in absentee ballot shall be voided.

**5. The special write-in absentee ballot provided for in this section shall be used instead of the federal write-in absentee ballot in general, special, and primary elections for federal office as authorized in Title 42, U.S.C. Section 1973ff-2(e), as amended.**

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