

SECOND REGULAR SESSION

# HOUSE BILL NO. 1604

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES CONWAY (10) (Sponsor), HUMMEL, MONTECILLO, KRATKY, RIZZO, ROORDA, COLONA, OTTO, MCDONALD, FRAME, SCHIEFFER, CARPENTER, ELLINGER, MITTEN, MCMANUS, SMITH, NEWMAN, MORGAN, GARDNER, PIERSON, MAY, MCNEIL, CURTIS AND WALTON GRAY (Co-sponsors).

4607L.01I

D. ADAM CRUMBLISS, Chief Clerk

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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, with penalty provisions.

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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Section A. Sections 115.277, 115.279, and 115.283, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 115.277, 115.279, and 115.283, to read as follows: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 2, 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  
36 Forces of the United States or members of their immediate family living with them may request  
37 an 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.....

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           Signed .....

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

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

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

92 "STATE OF .....

93 COUNTY OF ....., ss.

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

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

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

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

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

105 Signed .....

106 (Applicant)

107 .....

108 (Residence Address)

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

110 Signed .....

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

112 9. An application for an absentee ballot by an interstate former resident, as defined in  
113 section 115.275, shall be received in the office of the election authority where the applicant was  
114 formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the  
115 application is made in person by the applicant in the office of the election authority, in which  
116 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

17 County (City) of .....

18

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

22

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

25 ..... incapacity or confinement due to illness or physical disability, including caring for a  
26 person who is incapacitated or confined due to illness or disability;

27 ..... religious belief or practice;

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

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

32

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

39

40 ..... ..

41 Signature of Voter Signature of Person

42 .....  
Assisting Voter

43 .....  
(if applicable)

44 Signed ..... Subscribed and sworn to

45 Signed ..... before me this ..... day

46 Address of Voter of ....., .....

47 ..... ..

48 .....  
49 Mailing addresses Signature of notary or  
50 (if different) other officer authorized  
51 to administer oaths  
52

53 3. The statement for persons voting absentee ballots pursuant to the provisions of  
54 subsection 2, 3, 4, or 5 of section 115.277 without being registered shall be in substantially the  
55 following form:  
56

57 State of Missouri  
58 County (City) of .....  
59

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

65 I am (check one):  
66

67 ..... a resident of the state of Missouri and a registered voter in ..... County and moved from  
68 that county to ..... County, Missouri, after the last day to register to vote in this election.  
69 ..... an interstate former resident of Missouri and authorized to vote for presidential and  
70 vice presidential electors.  
71

72 I further state under penalties of perjury that I have not voted and will not vote other than by this  
73 ballot at this election; I marked the enclosed ballot in secret or am blind, unable to read or write  
74 English, or physically incapable of marking the ballot, and the person of my choosing indicated  
75 below marked the ballot at my direction; all of the information on this statement is, to the best  
76 of my knowledge and belief, true.  
77

78 .....  
79 Signature of Voter Subscribed to and sworn  
80 before me this ..... day  
81 of ....., .....  
82

83 Address of Voter .....  
84 Signature of notary or  
other officer authorized

85 to administer oaths

86 .....

87 Mailing Address .....

88 (if different) .....

89 .....

90 Signature of Person Address of Last

91 Assisting Voter Missouri Residence

92 (if applicable)

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

96

97 State of Missouri

98 County (City) of .....

99

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

102

103 ..... absence on election day from the jurisdiction of the election authority in which I am  
104 directed to vote;

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

107 ..... religious belief or practice;

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

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

111

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

118

119 ..... Subscribed and sworn

120 Signature of Voter to before me this .....

121 day of ....., .....





158           [9.] **8.** A notary public who charges more than the maximum fee specified or who  
159 charges or collects a fee for notarizing the signature on any absentee ballot or absentee voter  
160 registration is guilty of official misconduct.

✓