

FIRST REGULAR SESSION

HOUSE BILL NO. 382

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ZIMMERMAN (Sponsor), CARLSON, FALLERT, McMANUS, COLONA, OXFORD, ATKINS, SCHIEFFER, KIRKTON, SPRENG, HUMMEL, CASEY, ELLINGER, McGEOGHEGAN AND LAMPE (Co-sponsors).

0843L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.277, 115.279, 115.283, 115.287, 115.290, and 115.291, RSMo, and to enact in lieu thereof five new sections relating to absentee voting, with existing penalty provisions.

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

Section A. Sections 115.277, 115.279, 115.283, 115.287, 115.290, and 115.291, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 115.277, 115.279, 115.283, 115.287, and 115.291, to read as follows: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;

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]. **Each election**
14 **authority shall deliver an absentee ballot to each registered voter of this state for each**
15 **primary or general election in which the voter can vote for governor, lieutenant governor,**
16 **secretary of state, state auditor, state treasurer, attorney general, state representative, and**
17 **state senator. Such absentee ballot shall be delivered as required in section 115.287.**

18 2. Any person in federal service, as defined in section 115.275, who is eligible to register
19 and vote in this state but is not registered may vote only in the election of presidential and vice
20 presidential electors, United States senator and representative in Congress even though the
21 person is not registered. Each person in federal service may vote by absentee ballot or, upon
22 submitting an affidavit that the person is qualified to vote in the election, may vote at the person's
23 polling place.

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

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

31 5. Any new resident, as defined in section 115.275, may vote by absentee ballot for
32 presidential and vice presidential electors after registering to vote in such resident's new
33 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. **No application for an**
5 **absentee ballot shall be required for any voter provided with an absentee ballot under**
6 **subsection 1 of section 115.277.**

7 2. Each application shall be made to the election authority of the jurisdiction in which
8 the person is or would be registered. Each application shall be in writing and shall state the
9 applicant's name, address at which he or she is or would be registered, [his or her reason for
10 voting an absentee ballot,] the address to which the ballot is to be mailed, if mailing is requested,
11 and for absent uniformed services and overseas applicants, the applicant's email address if
12 electronic transmission is requested. Each application to vote in a primary election shall also
13 state which ballot the applicant wishes to receive. If any application fails to designate a ballot,
14 the election authority shall, within three working days after receiving the application, notify the
15 applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates

16 which political party ballot he or she wishes to receive. If the applicant does not respond to the
17 request for political party designation, the election authority is authorized to provide the voter
18 with that part of the ballot for which no political party designation is required.

19 3. Except as provided in subsection 3 of section 115.281, all applications for absentee
20 ballots received prior to the sixth Tuesday before an election shall be stored at the office of the
21 election authority until such time as the applications are processed in accordance with section
22 115.281. No application for an absentee ballot received in the office of the election authority by
23 mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday
24 immediately prior to the election shall be accepted by any election authority. No application for
25 an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the
26 election shall be accepted by any election authority, except as provided in subsections 6, 8 and
27 9 of this section.

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

36 5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who
37 resides outside the boundaries of the United States or who is on active duty with the armed forces
38 of the United States or members of their immediate family living with them may request an
39 absentee ballot for both the primary and subsequent general election with one application.

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

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

47 (4) Not later than sixty days after the date of each regularly scheduled general election
48 for federal office, each election authority which administered the election shall submit to the
49 secretary of state in a format prescribed by the secretary a report on the combined number of
50 absentee ballots transmitted to, and returned by, absent uniformed services voters and overseas
51 voters for the election. The secretary shall submit to the Election Assistance Commission a

52 combined report of such information not later than ninety days after the date of each regularly
53 scheduled general election for federal office and in a standardized format developed by the
54 commission pursuant to the Help America Vote Act of 2002. The secretary shall make the report
55 available to the general public.

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

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

64 STATE OF.....

65 COUNTY OF....., ss.

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

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

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

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

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

76 Signed

77 (Applicant)

78

79 (Residence Address)

80 [Subscribed and sworn to before me this day of,

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, village or city)
 98 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, **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 State of Missouri

16 County (City) of

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

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

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

24 religious belief or practice;

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

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

28

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

35

36

37 Signature of Voter

38

39

40 [Signed

41 Signed

.....

Signature of Person

Assisting Voter

(if applicable)

Subscribed and sworn to

before me this day]

42 Address of Voter [of,]
 43 [.....]
 44 [.....]
 45 Mailing addresses [Signature of notary or]
 46 (if different) [other officer authorized]
 47 [to administer oaths]

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

51 State of Missouri
 52 County (City) of

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

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

- 59 am a member of the U.S. armed forces in active service;
- 60 am an active member of the U.S. merchant marine;
- 61 am a civilian employee of the U.S. government working outside the United States;
- 62 am an active member of a religious or welfare organization assisting servicemen;
- 63 have been honorably discharged or terminated my service in one of the groups mentioned
- 64 above within sixty days of this election;
- 65 am a spouse or dependent of one of the above;
- 66 am a registered voter in County and moved from that county to
- 67 County, Missouri, after the last day to register to vote in this election.

68
 69 OR (check if applicable)

70
 71 (2) I am an interstate former resident of Missouri and authorized to vote
 72 for presidential and vice presidential electors. I further state under penalties of perjury that I
 73 have not voted and will not vote other than by this ballot at this election; I marked the enclosed
 74 ballot in secret or am blind, unable to read or write English, or physically incapable of marking
 75 the ballot, and the person of my choosing indicated below marked the ballot at my direction; all
 76 of the information on this statement is, to the best of my knowledge and belief, true.

77

78 [Subscribed to and sworn]
 79 Signature of Voter [before me this day]
 80 [of,]
 81 [.....]
 82 Address of Voter [Signature of notary or]
 83 [other officer authorized]
 84 [to administer oaths]
 85
 86
 87 Mailing Address
 88 (if different)
 89
 90 Signature of Person Address of Last Missouri
 91 Assisting Voter Residence (if applicable)

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

95 State of Missouri
 96 County (City) of

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

- 99 absence on election day from the jurisdiction of the election authority in which I am
 100 directed to vote;
- 101 incapacity or confinement due to illness or physical disability, including caring for a
 102 person who is incapacitated or confined due to illness or disability;
- 103 religious belief or practice;
- 104 employment as an election authority or by an election authority at a location other than
 105 my polling place;
- 106 incarceration, although I have retained all the necessary qualifications of voting.

107

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

114 [Subscribed and sworn to]
 115 Signature of Voter [before me this]
 116 [day of,]
 117
 118 [.....]
 119 Address [Signature of notary or]
 120 [other officer authorized]
 121 [to administer oaths]

122
 123 Signature of Person
 124 Assisting Voter
 125 (if applicable)

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

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

134
 135 Reason why voter needed assistance:
 136

137 ASSISTING PERSON SIGN HERE

- 138 1. (signature of assisting person)
- 139 2. (assisting person's name printed)
- 140 3. (assisting person's residence)
- 141 4. (assisting person's home city or town).

142 6. Notwithstanding any other provision of this section, any resident of the state of
 143 Missouri who resides outside the boundaries of the United States or who is on active duty with
 144 the armed forces of the United States or members of their immediate family living with them or
 145 persons who have declared themselves to be permanently disabled pursuant to section 115.284,
 146 otherwise entitled to vote, shall not be required to obtain a notary seal or signature on his or her
 147 absentee ballot.

148 7. Notwithstanding any other provision of this section or section 115.291 to the contrary,
 149 the subscription, signature and seal of a notary or other officer authorized to administer oaths

150 shall not be required on any ballot, ballot envelope, or statement required by this section [if the
151 reason for the voter voting absentee is due to the reasons established pursuant to subdivision (2)
152 of subsection 1 of section 115.277.

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

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

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 voters
9 and overseas voters, by electronic transmission if electronic transmission is requested by the
10 voter. Where the election authority is a county clerk, the members of bipartisan teams
11 representing the political party other than that of county clerk shall be selected from a list of
12 persons submitted to the county clerk by the county chairman of that party. If no list is provided
13 by the time that absentee ballots are to be made available, the county clerk may select a person
14 or persons from lists provided in accordance with section 115.087. If the election authority is
15 not satisfied that any applicant is entitled to vote by absentee ballot, it shall not deliver an
16 absentee ballot to the applicant. Within three working days of receiving such an application, the
17 election authority shall notify the applicant and state the reason he or she is not entitled to vote
18 by absentee ballot. The applicant may appeal the decision of the election authority to the circuit
19 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, 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 mark
2 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 marked
29 absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter
30 solely on the basis of restrictions on envelope type.

31 5. As provided in the Military and Overseas Voter Empowerment Act, the secretary of
32 state shall, in coordination with local election authorities, develop a free access system by which
33 an absent uniformed services voter or overseas voter may determine whether the voter's absentee
34 ballot has been received by the appropriate election authority.

35 **6. Any person registered by mail under the provisions of section 115.159 and voting**
36 **by absentee ballot shall provide an affidavit subscribed and sworn to as provided in section**
37 **115.291 regardless of the cause for requesting such ballot unless the voter is exempt from**
38 **such requirement under Section 115.284 or Section 1973ee-3, Title 42, United States Code.**

2 [115.290. Any person registered by mail under the provisions of section
3 115.159 and voting by absentee ballot shall provide an affidavit subscribed and
4 sworn to as provided in section 115.291 regardless of the cause for requesting
5 such ballot unless the voter is exempt from such requirement under section
115.284 or section 1973ee-3, title 42, United States Code.]