

SECOND REGULAR SESSION

HOUSE BILL NO. 2088

94TH GENERAL ASSEMBLY

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

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

D. ADAM CRUMBLISS, Chief Clerk

3255L.011

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.

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Section A. Sections 115.277, 115.279, 115.283, 115.287, 115.290, and 115.291, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 115.277, 115.279, 115.283, 115.287, and 115.291, to read as follows: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] and the address to which the ballot is to be mailed, if mailing is
11 requested. Each application to vote in a primary election shall also state which ballot the
12 applicant wishes to receive. If any application fails to designate a ballot, the election authority
13 shall, within three working days after receiving the application, notify the applicant by mail that
14 it will be unable to deliver an absentee ballot until the applicant designates which political party
15 ballot he or she wishes to receive. If the applicant does not respond to the request for political

16 party designation, the election authority is authorized to provide the voter with that part of the
17 ballot for which no political party designation is required.

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

115.283. 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

| | | |
|----|--------------------|---------------------------|
| 40 | Signature of Voter | Signature of Person |
| 41 | | Assisting Voter |
| 42 | | (if applicable) |
| 43 | [Signed | Subscribed and sworn to |
| 44 | Signed | before me this day] |
| 45 | Address of Voter | [of,] |
| 46 | | [.....] |
| 47 | | [.....] |
| 48 | Mailing addresses | [Signature of notary or] |
| 49 | (if different | [other officer authorized |
| 50 | | to administer oaths] |

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

54 State of Missouri
55 County (City) of

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

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

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

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

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

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

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

71 am a spouse or dependent of one of the above;

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

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].

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. Where the election authority is a county clerk,
9 the members of bipartisan teams representing the political party other than that of county clerk
10 shall be selected from a list of persons submitted to the county clerk by the county chairman of
11 that party. If no list is provided by the time that absentee ballots are to be made available, the
12 county clerk may select a person or persons from lists provided in accordance with section
13 115.087. If the election authority is not satisfied that any applicant is entitled to vote by absentee
14 ballot, it shall not deliver an absentee ballot to the applicant. Within three working days of
15 receiving such an application, the election authority shall notify the applicant and state the reason
16 he or she is not entitled to vote by absentee ballot. The applicant may appeal the decision of the
17 election authority to the circuit court in the manner provided in section 115.223.

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

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

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

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

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

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

26 **4. Any person registered by mail under the provisions of section 115.159 and voting**
27 **by absentee ballot shall provide an affidavit subscribed and sworn to before the election**
28 **official receiving the ballot, a notary public, or other officer authorized by law to**
29 **administer oaths, regardless of the cause for requesting such ballot unless the voter is**
30 **exempt from such requirement under section 115.284 or section 1973ee-3, title 42, United**
31 **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.]

✓