

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4514

BY DELEGATE ZUKOFF

Introduced February 02, 2022; Referred to the
Committee on Political Subdivisions then the
Judiciary]

1 A BILL to amend and reenact §3-3-5c of the Code of West Virginia, 1931, as amended, relating
2 to mandating county commissions develop emergency absentee voting procedures.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-5c. Procedures for voting an emergency absentee ballot by qualified voters.

1 (a) Notwithstanding any other provision of this chapter, a person qualified to vote an
2 emergency absentee ballot, as provided in §3-3-1(c) of this code, may vote an emergency
3 absentee ballot under the procedures established in this section. The county commission may
4 adopt a policy extending the emergency absentee voting procedures to: (1) Qualified voters in
5 hospitals or other duly licensed health care facilities within an adjacent county or within 35 miles
6 of the county seat; (2) qualified voters in nursing homes within the county; or (3) qualified voters
7 who become confined, on or after the seventh day preceding an election, to a specific location
8 within the county because of illness, injury, physical disability, immobility due to advanced age,
9 or another medical reason: *Provided*, That the policy is to be adopted by the county commission
10 at least 90 days prior to the election that will be affected and a copy of the policy is to be filed with
11 the Secretary of State: *Provided however*, That effective January 1, 2024, each county
12 *commission shall adopt such policy.*

13 (b) On or before the 56th day preceding the date on which any election is to be held, the
14 official designated to supervise and conduct absentee voting shall notify the county commission
15 of the number of sets of emergency absentee ballot commissioners which he or she determines
16 necessary to perform the duties and functions pursuant to this section.

17 (c) A set of emergency absentee ballot commissioners at-large shall consist of two
18 persons with different political party affiliations appointed by the county commission in accordance
19 with the procedure prescribed for the appointment of election commissioners under the provisions
20 of §3-1-1 *et seq.* of this code. Emergency absentee ballot commissioners have the same
21 qualifications and rights and take the same oath required under the provisions of this chapter for

22 commissioners of elections. Emergency absentee ballot commissioners are to be compensated
23 for services and expenses in the same manner as commissioners of election or poll clerks
24 obtaining and delivering election supplies under the provisions of §3-1-44 of this code.

25 (d) Upon request of the voter or a member of the voter's immediate family or, when the
26 county commission has adopted a policy to provide emergency absentee voting services to
27 nursing home residents within the county, upon request of a staff member of the nursing home,
28 the official designated to supervise and conduct absentee voting, upon receiving a proper request
29 for voting an emergency absentee ballot no earlier than the seventh day next preceding the
30 election and no later than noon of election day shall supply to the emergency absentee ballot
31 commissioners the application for voting an emergency absentee ballot and the balloting
32 materials. The emergency absentee ballot application is to be prescribed by the Secretary of State
33 and is to include the name, residence address and political party affiliation of the voter, the date,
34 location and reason for confinement in the case of an emergency, and the name of the attending
35 physician.

36 (e) The application for an emergency absentee ballot is to be signed by the person
37 applying. If the person applying for an emergency absentee ballot is unable to sign his or her
38 application because of illiteracy or physical disability, he or she is to make his or her mark on the
39 signature line provided for an illiterate or disabled applicant, the mark is to be witnessed. The
40 person assisting the voter and witnessing the mark of the voter shall sign his or her name in the
41 space provided.

42 (f) A declaration is to be completed and signed by each of the emergency absentee ballot
43 commissioners, stating their names, the date on which they appeared at the place of confinement
44 of the person applying for an emergency absentee ballot, and the particulars of the confinement.

45 (g) At least one of the emergency absentee ballot commissioners receiving the balloting
46 materials shall sign a receipt which is to be attached to the application form. Each of the
47 emergency absentee ballot commissioners shall deliver the materials to the absent voter, await

48 his or her completion of the application and ballot and return the application and the ballot to the
49 official designated to supervise and conduct absentee voting. Upon delivering the application and
50 the voted ballot to the official, the emergency absentee ballot commissioners shall sign an oath
51 that no person other than the absent voter voted the ballot. The application and the voted ballot
52 are to be returned to the official designated to supervise and conduct absentee voting prior to the
53 close of the polls on election day. Any ballots received by the official after the time that delivery
54 may reasonably be made but before the closing of the polls are to be delivered to the canvassing
55 board along with the absentee ballots challenged in accordance with the provisions of §3-3-10 of
56 this code.

57 (h) Upon receiving the application and emergency absentee ballot, the official designated
58 to supervise and conduct absentee voting shall ascertain whether the application is complete,
59 whether the voter appears to be eligible to vote an emergency absentee ballot, and whether the
60 voter is properly registered to vote with the office of the clerk of the county commission. If the
61 voter is found to be properly registered in the precinct shown on the application, the ballot is to be
62 delivered to the precinct election commissioner pursuant to §3-3-7 of this code. If the voter is
63 found not to be registered or is otherwise ineligible to vote an emergency ballot, the ballot is to be
64 challenged for the appropriate reason provided for in §3-3-10 of this code.

65 (i) If either or both of the emergency absentee ballot commissioners refuse to sign any
66 application for voting an emergency absentee ballot, the voter may vote as an emergency
67 absentee and the ballot will be challenged in accordance with the provisions of §3-3-10 of this
68 code, in addition to those absentee ballots subject to challenge as provided in that section.

69 (j) Any voter who receives assistance in voting an emergency absentee ballot shall comply
70 with the provisions of §3-3-6 of this code. Any other provisions of this chapter relating to absentee
71 ballots not altered by the provisions of this section are to govern the treatment of emergency
72 absentee ballots.

NOTE: The purpose of this bill is to require, effective January 1, 2024, that each County Commission shall adopt a policy extending the emergency absentee voting procedures.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.