

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2811

By Delegate Young

[Introduced January 19, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-3-1 of the Code of West Virginia, 1931, as amended, relating to
2 voting; and allowing voters 65 and older to vote absentee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-1. Persons eligible to vote absentee ballots.

1 (a) All registered and other qualified voters of the county may vote an absentee ballot
2 during the period of early voting in person.

3 (b) Registered voters and other qualified voters in the county are authorized to vote an
4 absentee ballot by mail in the following circumstances:

5 (1) Any voter who is confined to a specific location and prevented from voting in person
6 throughout the period of voting in person because of:

7 (A) Disability, illness, injury, or other medical reason;

8 (B) ~~Physical disability or immobility due to extreme advanced age~~ Any voter who has
9 attained the age of 65; or

10 (C) Incarceration or home detention: *Provided*, That the underlying conviction is not for a
11 crime which is a felony or a violation of §3-9-12, §3-9-13, or §3-9-16 of this code involving bribery
12 in an election;

13 (2) Any voter who is absent from the county throughout the period and available hours for
14 voting in person because of:

15 (A) Personal or business travel;

16 (B) Attendance at a college, university, or other place of education or training; or

17 (C) Employment which because of hours worked and distance from the county seat make
18 voting in person impossible;

19 (3) Any voter absent from the county throughout the period and available hours for voting in
20 person and who is an absent uniformed services voter or overseas voter, as defined by 42 U.S.C.
21 §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, including

members of the uniformed services on active duty, members of the merchant marine, spouses and dependents of those members on active duty, and persons who reside outside the United States and are qualified to vote in the last place in which the person was domiciled before leaving the United States;

(4) Any voter who is required to dwell temporarily outside the county and is absent from the county throughout the time for voting in person because of:

(A) Serving as an elected or appointed federal or state officer; or

(B) Serving in any other documented employment assignment of specific duration of four years or less;

(5) Any voter for whom the designated area for absentee voting within the county courthouse or annex of the courthouse and the voter's assigned polling place are inaccessible because of his or her physical disability; and

(6) Any voter who is participating in the Address Confidentiality Program as established by §48-28A-103 of this code.

(c) Registered voters and other qualified voters in the county are authorized to vote an electronic absentee ballot in the following circumstances:

(1) The voter has a physical disability, as defined in §3-3-1a of this code; or

(2) The voter is absent from the county throughout the period and available hours for voting in person and is an absent uniformed services voter or overseas voter, as defined by 42 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, including members of the uniformed services on active duty, members of the merchant marine, spouses and dependents of those members on active duty, and persons who reside outside the United States and are qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(3) The voter is a qualified first responder called away on duty to respond to an emergency outside the voter's county of residence, which prevents the voter from participating in the election

by in-person and mail-in absentee voting. For purposes of this section, "qualified first responder" means a person with specialized training who arrives and provides aid at the scene of an emergency, such as an accident, natural disaster, or act of terrorism. First responders typically include emergency medical technicians, firefighters, law-enforcement officers, neighborhood assistance officers, and paramedics.

(d) Registered voters and other qualified voters in the county may, in the following circumstances, vote an emergency absentee ballot, subject to the availability of the services as provided in this article:

(1) Any voter who is confined or expects to be confined in a hospital or other duly licensed health care facility within the county of residence or other authorized area, as provided in this article, on the day of the election;

(2) Any voter who resides in a nursing home within the county of residence and would be otherwise unable to vote in person, providing the county commission has authorized the services if the voter has resided in the nursing home for a period of less than 30 days;

(3) Any voter who becomes confined, on or after the 7th day preceding an election, to a specific location within the county because of illness, injury, physical disability, immobility due to advanced age, or another medical reason: *Provided*, That the county clerk may require a written confirmation by a licensed physician, physician's assistant, or advanced practice registered nurse that the voter meets the criteria of this subdivision before permitting such voter to vote an emergency absentee ballot; and

(4) Any voter who is working as a replacement poll worker and is assigned to a precinct out of his or her voting district, if the assignment was made after the period for voting an absentee ballot in person has expired.

NOTE: The purpose of this bill is to allow voters 65 and older to vote absentee.

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