

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2823**

By Delegate Young

[Introduced February 24, 2025; 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~~ may 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

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

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

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

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

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

34 (6) Any voter who is participating in the Address Confidentiality Program as established by  
35 §48-28A-103 of this code.

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

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

39 (2) The voter is absent from the county throughout the period and available hours for voting  
40 in person and is an absent uniformed services voter or overseas voter, as defined by 42 U.S.C.  
41 §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, including  
42 members of the uniformed services on active duty, members of the merchant marine, spouses and  
43 dependents of those members on active duty, and persons who reside outside the United States  
44 and are qualified to vote in the last place in which the person was domiciled before leaving the  
45 United States; or

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

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

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

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

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

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

68 (4) Any voter who is working as a replacement poll worker and is assigned to a precinct out  
69 of his or her voting district, if the assignment was made after the period for voting an absentee  
70 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.