

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 3238**

By Delegates Anders, Kump, White, Coop-Gonzalez,  
and Horst

[Introduced March 07, 2025; referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-4 and §3-3-1 of the Code of West Virginia, 1931, as amended,  
 2 relating to voting in the state; requiring that voting shall be by paper ballot; and providing  
 3 that only active members of the United States Armed Forces, which consist of six services:  
 4 the Army, Marine Corps, Navy, Air Force, Space Force, and the Coast Guard, or persons  
 5 who are handicapped and disabled may vote absentee ballots.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§3-1-4. Manner of voting.**

1 In all elections the mode of voting shall be by paper ballot, but the voter shall be left free to  
 2 vote by either open, sealed, or secret ballot, as ~~he~~ the voter may elect. Voting by ballot may be  
 3 accomplished as provided in §3-3-1 *et seq.*, §3-4-1-*et seq.*, §3-5-1-*et seq.*, and §3-4-6-*et seq.* of  
 4 this code.

**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; or~~

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

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

14 ~~(A) Personal or business travel;~~

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

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

18 ~~(3) Any voter absent from the county throughout the period and available hours for voting in~~  
19 ~~person and who is an absent uniformed services voter or overseas voter, as defined by 42 U.S.C.~~  
20 ~~§ 1973, et seq., the Uniformed and Overseas Citizens Absentee Voting Act of 1986, including~~  
21 ~~members of the uniformed services on active duty, members of the merchant marine, spouses and~~  
22 ~~dependents of those members on active duty, and persons who reside outside the United States~~  
23 ~~and are qualified to vote in the last place in which the person was domiciled before leaving the~~  
24 ~~United States;~~

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

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

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

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

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

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

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

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

45           ~~(3) The voter is a qualified first responder called away on duty to respond to an emergency~~  
46 ~~outside the voter's county of residence, which prevents the voter from participating in the election~~  
47 ~~by in-person and mail-in absentee voting. For purposes of this section, "qualified first responder"~~  
48 ~~means a person with specialized training who arrives and provides aid at the scene of an~~  
49 ~~emergency, such as an accident, natural disaster, or act of terrorism. First responders typically~~  
50 ~~include emergency medical technicians, firefighters, law enforcement officers, neighborhood~~  
51 ~~assistance officers, and paramedics.~~

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

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

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

61           ~~(3) Any voter who becomes confined, on or after the 7th day preceding an election, to a~~  
62 ~~specific location within the county because of illness, injury, physical disability, immobility due to~~  
63 ~~advanced age, or another medical reason: *Provided*, That the county clerk may require a written~~

64 ~~confirmation by a licensed physician, physician's assistant, or advanced practice registered nurse~~  
65 ~~that the voter meets the criteria of this subdivision before permitting such voter to vote an~~  
66 ~~emergency absentee ballot; and~~

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

70 Effective at the primary election in 2026, and thereafter for primary and general elections,  
71 only active members of the United States Armed Forces, which consist of six services: the Army,  
72 Marine Corps, Navy, Air Force, Space Force, and the Coast Guard, or persons who are  
73 handicapped and disabled may vote by absentee ballots.

NOTE: The purpose of this bill is requiring that voting shall be by paper ballot; and providing that only active members of the United States Armed Forces, which consist of six services: the Army, Marine Corps, Navy, Air Force, Space Force, and the Coast Guard, or persons who are handicapped and disabled may vote absentee ballots.

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