

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 855

By Senators Morris and Hamilton

[Introduced February 9, 2026; 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 absentee voting; and providing the circumstances that a qualified voter is authorized to
 3 vote an absentee ballot by mail.

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 or physical disability illness, injury, or other medical reason~~ as defined in §3-
 8 3-1a of this code;

9 (B) ~~Physical disability or immobility due to extreme advanced age~~ Illness that prevents the
 10 voter from appearing to vote during the entire period that in-person voting is conducted; or

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

14 (2) Any voter who is ~~is~~ expects to be absent from the county of the voter's residence
 15 throughout the period and available hours for voting in person ~~because of:~~

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

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

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

20 (3) Any voter absent from the county throughout the period and available hours for voting in

21 person and who is an absent uniformed services voter or overseas voter, as defined by 42 U.S.C.
22 § 1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, including
23 members of the uniformed services on active duty, members of the merchant marine, spouses and
24 dependents of those members on active duty, and persons who reside outside the United States
25 and are qualified to vote in the last place in which the person was domiciled before leaving the
26 United States; and

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

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

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

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

35 ~~(6) (4) Any voter who is participating in the Address Confidentiality Program as established~~
36 ~~by §48-28A-103 of this code.~~

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to provide the circumstances that a qualified voter is

authorized to vote an absentee ballot by mail.

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