

**117.085 Application for mail-in absentee ballot -- In-person absentee voting in the clerk's office -- Supervision of and challengers for absentee voting -- Form of ballot -- Cancellation of absentee ballot -- Disclosure of information.**

- (1) All requests for an application for a mail-in absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. The county clerk shall transmit all applications for a mail-in absentee ballot by mail to the voter or in person at the option of the voter, except as provided in paragraph (b) of this subsection. The mail-in absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, those who are uniformed-service voters as defined in KRS 117A.010 that are confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, mail-in absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. The county clerk shall provide a mail-in absentee ballot, two (2) official envelopes for returning the mail-in absentee ballot, and instructions for voting to a voter who presents a completed application for mail-in absentee ballot as provided in this section and who is properly registered as stated in his or her mail-in absentee ballot application.
  - (a) A qualified voter may apply to cast his or her vote by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election, and if the voter is:
    1. Permitted to vote by a mail-in absentee ballot pursuant to KRS 117.075;
    2. A resident of Kentucky who is a covered voter as defined in KRS 117A.010;
    3. A student who temporarily resides outside the county of his or her residence;
    4. Incarcerated in jail and charged with a crime, but has not been convicted of the crime;
    5. Changing or has changed his or her place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, in which case the voter shall be permitted to cast a mail-in absentee ballot for electors for President and Vice President of the United States only;
    6. Temporarily residing outside the state but still eligible to vote in this state;
    7. Prevented from voting in person at the polls on election day and from casting an in-person absentee ballot in the county clerk's office on all days in-person absentee voting is conducted because his or her employment location requires him or her to be absent from the county of his or her residence all hours and all days in-person

absentee voting is conducted in the county clerk's office; or

8. A participant in the Secretary of State's crime victim address confidentiality protection program as authorized by KRS 14.312.
- (b) Residents of Kentucky who are covered voters as defined in KRS 117A.010 may apply for a mail-in absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail, by facsimile machine, or by means of the electronic transmission system established under KRS 117A.030(4). The federal post-card application may be used to register, reregister, and to apply for a mail-in absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.
  - (c) In-person absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit in-person absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
  - (d) Any qualified voter in the county of his or her residence who is not permitted to vote by a mail-in absentee ballot under paragraph (a) of this subsection who will be absent from the county of his or her residence on any election day may, at any time during normal business hours on those days in-person absentee voting is conducted in the county clerk's office, make application in person to the county clerk to cast an in-person absentee vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
  - (e) A qualified voter may, at any time during normal business hours on those days in-person absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, if the voter:
    1. Is a resident of Kentucky who is a covered voter as defined in KRS 117A.010, who will be absent from the county of his or her residence on any election day;
    2. Is a student who temporarily resides outside the county of his or her residence;
    3. Has surgery, or whose spouse has surgery, scheduled that will require hospitalization on election day;
    4. Temporarily resides outside the state, but is still eligible to vote in this state and will be absent from the county of his or her residence on any election day;
    5. Is a resident of Kentucky who is a uniformed-service voter as defined in KRS 117A.010 confined to a military base on election

day, learns of that confinement within seven (7) days or less of an election, and is not eligible for a mail-in absentee ballot under this subsection;

6. Is in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote; or
  7. Has not been declared mentally disabled by a court of competent jurisdiction and, on account of age, disability, or illness, is not able to appear at the polls on election day.
- (f) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an in-person absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, up to the close of normal business hours on the day before the election.
- (g) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he or she is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he or she is registered receives his or her appointment while in-person absentee voting is being conducted in the county, the officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. Precinct election officers' verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
- (h) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all in-person absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for

the in-person absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for in-person absentee voting, the county clerk or deputy county clerks shall supervise the in-person absentee voting.

- (i) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all in-person absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
- (2) The county clerk shall type the name of the voter permitted to vote by mail-in absentee ballot on the mail-in absentee ballot application form for that person's use and no other. The mail-in absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for a mail-in absentee ballot. The mail-in absentee ballot application form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the mail-in absentee ballot application form.
- (3) If the county clerk finds that the voter is properly registered as stated in his or her mail-in absentee ballot application form and qualifies to receive a mail-in absentee ballot by mail, he or she shall mail to the voter a mail-in absentee ballot, two (2) official envelopes for returning the mail-in absentee ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for mail-in absentee ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the mail-in absentee ballots are mailed. A mail-in absentee ballot may be transmitted by facsimile machine or by the electronic transmission system established under KRS 117A.030(4) to a covered voter as defined in KRS 117A.010. The covered voter shall be notified of the options for transmittal of the mail-in absentee ballot, and the mail-in absentee ballot shall be transmitted by the method chosen for receipt by the resident of Kentucky who is a covered voter.
- (4) Mail-in absentee ballots which are requested prior to the printing of the mail-in absentee ballots shall be mailed or otherwise transmitted as provided in subsection (3) of this section by the county clerk to the voter within three (3) days of the receipt of the printed ballots. Mail-in absentee ballots requested after the receipt of the ballots by the county clerk shall be mailed or otherwise transmitted as provided in subsection (3) of this section to the voter within three (3) days of the receipt of the request.
- (5) The county clerk shall cause mail-in absentee ballots to be printed fifty (50) days prior to each primary or regular election, and forty-five (45) days prior to a

special election.

- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The county clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The county clerk shall retain the mail-in ballot application form and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received a mail-in absentee ballot by mail but who knows at least seven (7) days before the date of the election that he or she will be in his or her county of residence on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her mail-in absentee ballot and vote in person. The voter shall return the mail-in absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the mail-in absentee ballot, the county clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The county clerk shall remove the voter's name from the list of persons who were sent mail-in absentee ballots, and the voter may vote in the precinct in which he or she is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in absentee ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second mail-in absentee ballot. The county clerk shall keep a record of the mail-in absentee ballots issued and returned by mail, and the in-person absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the county clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) Any covered voter as defined in KRS 117A.010 who has received a mail-in absentee ballot but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her mail-in absentee ballot and vote in person. The voter shall return the mail-in absentee ballot to the county clerk's office on or before election day. Upon the return of the mail-in absentee ballot, the county clerk shall mark on the outer envelope of the sealed mail-in absentee ballot or the unmarked mail-in absentee ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. If the covered voter is unable to return the mail-in absentee ballot to the county

clerk's office on or before election day, at the time he or she votes in person, he or she shall sign a written oath as to his or her qualifications on the form prescribed by the State Board of Elections pursuant to KRS 117.245. The county clerk shall remove the voter's name from the list of persons who were sent mail-in absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.

- (10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, the information contained in an application for a mail-in absentee ballot shall not be made public until after the close of business hours on the election day for which the application applies. This subsection shall not prohibit at any time the disclosure, upon request, of the total number of applications for mail-in absentee ballots that have been filed, or the disclosure to the Secretary of State or the State Board of Elections, if requested or if otherwise required by law, of any information in an application for a mail-in absentee ballot.

**Effective:** April 11, 2017

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