

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Introduced**

## **Senate Bill 536**

BY SENATORS TARR AND CLINE

[Introduced February 6, 2019; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-2-31 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §3-3-3 of said code, all relating to updating election law by providing  
3 language governing new election systems; and allowing voters during in-person early  
4 voting to change their address and vote the proper ballot without challenge.

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

## **ARTICLE 2. REGISTRATION OF VOTERS.**

### **§3-2-31. Rules pertaining to voting after registration or change of address within the county.**

1 (a) A voter who designates a political affiliation with a major party on a registration  
2 application filed no later than the close of voter registration before the primary may vote the ballot  
3 of that political party in the primary election. Political parties, through the official action of their  
4 state executive committees, shall be permitted to determine whether unaffiliated voters or voters  
5 of other parties shall be allowed to vote that party's primary election ballot upon request.

6 (b) A voter whose registration record lists one residence address but the voter has since  
7 moved to another residence address within the precinct shall be permitted to update the  
8 registration at the polling place and vote without challenge for that reason.

9 (c) A voter whose registration record lists one residence address but the voter has since  
10 moved to another residence address in a different precinct in the same county shall be permitted  
11 to update the registration at the polling place serving the new precinct and shall be permitted to  
12 vote a challenged or provisional ballot at the new polling place. If the voter's registration is found  
13 on the registration records within the county during the canvass and no other challenge of  
14 eligibility was entered on election day, the challenge shall be removed and the ballot shall be  
15 counted.

16 (d) A voter whose registration record lists one residence address but the voter has since  
17 moved to another residence address within the same precinct, or a different precinct within the  
18 same county, and who is voting early in person, shall be permitted to update his or her registration

19 and vote without challenge the ballot serving the new precinct.

20 (d) (e) A voter whose registration record has been placed on an inactive status or  
 21 transferred to an inactive file and who has not responded to a confirmation notice sent pursuant  
 22 to the provisions of sections 24, 25 or 26 of this article and who offers to vote at the polling place  
 23 where he or she is registered to vote shall be required to affirm his or her present residence  
 24 address under penalty of perjury, as provided in section 36 of this article.

### **ARTICLE 3. VOTING BY ABSENTEES.**

#### **§3-3-3. Early voting in person.**

1 (a) The voting period for early in-person voting is to be conducted during regular business  
 2 hours beginning on the thirteenth day before the election and continuing through the third day  
 3 before the election. Additionally, early in-person voting is to be available from 9:00 a.m. to 5:00  
 4 p.m. on Saturdays during the early voting period.

5 (b) Any person desiring to vote during the period of early in-person voting shall, upon  
 6 entering the election room, clearly state his or her name and residence to the official or  
 7 representative designated to supervise and conduct absentee voting. If that person is found to be  
 8 duly registered as a voter in the precinct of his or her residence, he or she is required to sign his  
 9 or her name in the space marked "signature of voter" on the pollbook or poll slip. If the voter is  
 10 unable to sign his or her name due to illiteracy or physical disability, the person assisting the voter  
 11 and witnessing the mark of the voter shall sign his or her name in the space provided. No ballot  
 12 may be given to the person until he or she signs his or her name on the pollbook or poll slip.

13 (c) When the voter's signature or mark is properly on the pollbook, two qualified  
 14 representatives of the official designated to supervise and conduct absentee voting shall sign their  
 15 names in the places indicated on the back of the official ballot.

16 ~~(d) If the official designated to supervise and conduct absentee voting determines that the~~  
 17 ~~voter is not properly registered in the precinct where he or she resides, the clerk or his or her~~  
 18 ~~representative shall challenge the voter's absentee ballot as provided in this article~~

19           ~~(e)~~ (d) The official designated to supervise and conduct absentee voting shall provide each  
 20 person voting an absentee ballot in person the following items to be printed as prescribed by the  
 21 Secretary of State:

22           (1) In counties using paper ballots, one of each type of official absentee ballot the voter is  
 23 eligible to vote, prepared according to law;

24           ~~(2) In counties using punch card systems, one of each type of official absentee ballot the~~  
 25 ~~voter is eligible to vote, prepared according to law, and a gray secrecy envelope~~

26           (3) (2) In counties using optical scan systems, one of each type of official absentee ballot  
 27 the voter is eligible to vote, prepared according to law, and a secrecy sleeve; ~~or~~

28           (3) In counties using ballot marking devices, one of each type of official absentee ballot  
 29 the voter is eligible to vote, prepared according to law, and a secrecy sleeve; or

30           (4) For direct recording election systems, access to the voting equipment in the voting  
 31 booth.

32           ~~(f)~~ (e) ~~The voter shall enter the voting booth alone and there mark the ballot: *Provided,*~~  
 33 ~~That the voter may have assistance in voting according to the provisions of section four of this~~  
 34 ~~article.~~ After the voter has voted the ballot or ballots, the absentee voter shall: Place the ballot or  
 35 ballots in the ~~gray~~ secrecy envelope or sleeve and return the ballot or ballots to the official  
 36 designated to supervise and conduct the absentee voting: *Provided, That* in direct recording  
 37 election systems, once the voter has cast his or her ballot, the voter shall exit the polling place.

38           (9) (f) Upon receipt of the voted ballot, representatives of the official designated to  
 39 supervise and conduct the absentee voting shall place ballots for all voting systems into a secured  
 40 ballot box.

41           ~~(1) Remove the ballot stub;~~

42           ~~(2) Place punch card ballots and paper ballots into one envelope which shall not have any~~  
 43 ~~marks except the precinct number and seal the envelope; and~~

44           ~~(3) Place ballots for all voting systems into a ballot box that is secured by two locks with a~~

45 ~~key to one lock kept by the president of the county commission and a key to the other lock kept~~  
46 ~~by the county clerk~~

NOTE: The purpose of this bill is to cleanup election law language by removing language no longer needed, providing language governing new election systems and allowing voters during in-person absentee early voting to change their address and vote the proper ballot without challenge.

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