

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2921

BY DELEGATES YOUNG, FLUHARTY, PUSHKIN, ZUKOFF,

ROWE AND BARACH

[Introduced March 05, 2021; 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; 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 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
20 in person and who is an absent uniformed services voter or overseas voter, as defined by 42
21 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986,

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

26 (4) Any voter who is required to dwell temporarily outside the county and is absent from
27 the 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
35 by §48-28A-103 of this code.

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

46 (d) Registered voters and other qualified voters in the county may, in the following
47 circumstances, vote an emergency absentee ballot, subject to the availability of the services as

48 provided in this article:

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

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

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

61 (4) Any voter who is working as a replacement poll worker and is assigned to a precinct
62 out of his or her voting district, if the assignment was made after the period for voting an absentee
63 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.