

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5623

By Delegates W. Hall, Shamblin, Rohrbach, DeVault,

Stephens, Ferrell, Hite, Green, Steele, and Forsht

[Originating in the Committee on the Judiciary;

Reported on February 23, 2024]

1 A BILL to amend and reenact §3-3-12 of the Code of West Virginia, 1931, as amended, relating to
2 codifying existing policy of the Secretary of State regarding the verification of absentee
3 ballots; requiring the creation of an electronic absentee by mail ballot tracking system; and
4 requiring certain content to be provided on the electronic absentee by mail ballot tracking
5 system.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. VOTING BY ABSENTEES.

**§3-3-12. Rules, regulations, orders, instructions, forms, lists and records pertaining to
absentee voting.**

1 (a) The Secretary of State shall make, amend and rescind rules, regulations, orders and
2 instructions, and prescribe forms, lists and records, and consolidation of forms, lists and records
3 as may be necessary to carry out the policy of the Legislature as contained in this article and as
4 may be necessary to provide for an effective, efficient and orderly administration of the absentee
5 voter law of this state. In the case of West Virginia voters residing outside the continental United
6 States, the Secretary of State shall promulgate rules and regulations necessary to implement
7 procedures relating to absentee voters contained in 42 U.S.C. §1973, *et seq.*, the Uniformed and
8 Overseas Citizens Absentee Voting Act of 1986 and shall forward a copy of the act to all officials
9 designated to supervise and conduct absentee voting before January 1, of each even-numbered
10 year.

11 (b) The Secretary of State may establish special procedures to allow absentee voting for
12 those categories of registered voters who, because of special circumstances, would otherwise be
13 unable to vote in the election.

14 (c) It is the duty of all officials designated to supervise and conduct absentee voting, other
15 county officers, and all election commissioners and poll clerks to abide by the rules, regulations,
16 orders and instructions and to use the forms, lists and records which may include or relate to:

17 (1) The consolidation of the two application forms provided for in this article into one form;

18 (2) The size and form of absent voter's ballot envelope nos. 1 and 2, and carrier envelopes;

19 (3) The information which is to be placed on absent voter's ballot envelope no. 1 and the
20 forms and information which are to be placed on absent voter's ballot envelope no. 2;

21 (4) The forms and manner of making the challenges to absentee ballots authorized by this
22 article;

23 (5) The forms of, information to be contained in, and consolidation of lists and records
24 pertaining to applications for, and voting of, absentee ballots and assistance to persons voting
25 absentee ballots;

26 (6) The supplying of application forms, envelopes, challenge forms, lists, records and other
27 forms; and

28 (7) The keeping and security of voted absentee ballots in the office of the official
29 designated to supervise and conduct absentee voting.

30 (d) The Secretary of State shall establish, acquire, or approve an absentee by mail ballot
31 tracking system that indicates whether the voter's early ballot has been received and whether the
32 early ballot has been verified and sent to be tabulated or rejected. The system shall be available
33 on a website or mobile application. For each elector who votes by absent voter ballot at an
34 election, the electronic security system described in this subsection must indicate all of the
35 following:

36 (1) The date the officials designated to supervise and conduct absentee voting received
37 the elector's absent voter ballot application.

38 (2) If the elector's absent voter ballot application was accepted, the date of the acceptance,
39 and if the elector's absent voter ballot application was rejected, all of the following:

40 (A) A brief statement of the reason for the rejection.

41 (B) Instructions for curing the issue with the elector's absent voter ballot application, along
42 with the deadline for curing the issue with the elector's absent voter ballot application.

43 (C) If the issue with the elector's absent voter ballot application is cured by the elector and
44 the absent voter ballot application is accepted by the officials designated to supervise and conduct
45 absentee voting, an update that the elector's absent voter ballot application was accepted and the
46 date of the acceptance.

47 (3) The date the officials designated to supervise and conduct absentee voting mailed or
48 delivered the absent voter ballot to the elector, or for an absent uniformed services voter or
49 overseas voter under §3-3-1(b)(3) of this code, the date the absent uniformed services voter's or
50 overseas voter's official designated to supervise and conduct absentee voting mailed or
51 electronically transmitted the absent voter ballot to the absent uniformed services voter or
52 overseas voter.