WEST VIRGINIA CODE: §3-3-4

§3-3-4. Assistance to voter in voting an absentee ballot by personal appearance; penalties.

(a) Any registered voter who requires assistance to vote by reason of blindness, physical disability, advanced age, or inability to read and write may be given assistance by a person of the voter's choice: *Provided*, That the assistance may not be given by the voter's present or former employer or agent of that employer, by the officer or agent of a labor union of which the voter is a past or present member, or by a candidate on the ballot.

(b) Any voter who requests assistance in voting an absentee ballot but who is determined by the official designated to supervise and conduct absentee voting not to be qualified for assistance under the provisions of this section and §3-1-34 of this code may vote a provisional absentee ballot with the assistance of any person authorized to render assistance pursuant to this section. The official designated to supervise and conduct absentee voting shall, in this case, challenge the absentee ballot on the basis of his or her determination that the voter is not qualified for assistance.

(c) Any one or more of the election commissioners or poll clerks in the precinct to which an absentee ballot has been sent may challenge the ballot on the grounds that the voter received assistance in voting the ballot when in his or their opinion: (1) The person who received the assistance in voting the absentee ballot did not require assistance; or (2) the person who provided the assistance in voting did not make an affidavit as required by this section. The election commissioner or poll clerk or commissioners or poll clerks making a challenge shall enter the challenge and reason for the challenge on the form and in the manner prescribed or authorized by this article.

(d) Before entering the voting booth or compartment, the person who intends to provide a voter assistance in voting by personal appearance shall make an affidavit, the form of which is to be prescribed by the Secretary of State, that he or she will not in any manner request, seek to persuade, or induce the voter to vote any particular ticket or for any particular candidate or for or against any public question; that he or she will not keep or make any memorandum or entry of anything occurring within the voting booth or compartment; and that he or she will not, directly or indirectly, reveal to any person the name of any candidate voted for by the voter, which ticket the voter voted, how the voter voted on any public question, or anything occurring within the voting booth, compartment, or voting machine booth, except when required, pursuant to law, in a judicial proceeding.

(e) In accordance with instructions issued by the Secretary of State, the official designated to supervise and conduct absentee voting shall complete a form entitled "List of Assisted Voters", which list is to be divided into two parts, as follows:

(1) Part A is to be entitled "Unchallenged Assisted Voters"; and Part B is to be entitled

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"Challenged Assisted Voters".

(2) Under Part A, the official designated to supervise and conduct absentee voting shall enter the name of each voter receiving unchallenged assistance in voting an absentee ballot, the address of the voter assisted, the nature of the disability which qualified the voter for assistance in voting an absentee ballot, the name of the person providing the voter with assistance in voting an absentee ballot, the fact that the person rendering the assistance in voting made and subscribed the affidavit required by this section, and the signature of the official designated to supervise and conduct absentee voting, certifying to the fact that he or she had determined that the voter who received assistance in voting an absentee ballot was qualified to receive the assistance under the provisions of this section.

(3) Under Part B, the official designated to supervise and conduct absentee voting shall enter the name of each voter receiving challenged assistance in voting, the address of the voter receiving challenged assistance, the reason for the challenge, and the name of the person providing the challenged voter with assistance in voting. At the close of the period provided for voting an absentee ballot by personal appearance, the official designated to supervise and conduct absentee voting shall make and subscribe to an oath on the list that the list is correct in all particulars.

(4) If no voter has been assisted in voting an absentee ballot as provided in this section, the official designated to supervise and conduct absentee voting shall make and subscribe to an oath of that fact on the list.

(5) The "List of Assisted Voters" is to be available for public inspection in the office of the official designated to supervise and conduct absentee voting during regular business hours throughout the period provided for voting an absentee ballot by personal appearance and, unless otherwise directed by the Secretary of State, the official shall transmit the list, together with the affidavits, applications, and absentee ballots, to the precincts on election day.

(f) Following the election, the affidavits required by this section from persons providing assistance in voting, together with the "List of Assisted Voters", are to be returned by the election commissioners to the clerk of the county commission, along with the election supplies, records, and returns. The clerk shall make the oaths and the "List of Assisted Voters" available for public inspection and shall preserve the oaths and list for 22 months or, if under order of the court, until their destruction or other disposition is authorized or directed by the court.

(g) Any person making an affidavit required under the provisions of this section who knowingly swears falsely in the affidavit or any person who counsels or advises, aids, or abets another in the commission of false swearing under this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail for a period of not more than one year, or both fined and confined.

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(h) Any person who provides a voter assistance in voting an absentee ballot in the office of the official designated to supervise and conduct absentee voting who is not qualified or permitted by this section to provide assistance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail for a period of not more than one year, or both fined and confined.

(i) Any official designated to supervise and conduct absentee voting, election commissioner, or poll clerk who authorizes or allows a voter to receive or to have received unchallenged assistance in voting an absentee ballot when the voter is known to the official designated to supervise and conduct absentee voting or election commissioner or poll clerk not to be or have been authorized by the provisions of this section to receive or to have received assistance in voting is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail for a period of not more than one year, or both fined and confined.

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