WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

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ENROLLED

HOUSE BILL No. 4357

(By the Del. Roop & Minard)

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Passed Feb. 27, 1988

In Effect From Passage
ENROLLED

H. B. 4357
(By Delegates Roop and Minard)

[Passed February 27, 1988; in effect from passage.]

AN ACT to amend and reenact section forty-one, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections five, seven and twelve, article three of said chapter; to further amend said article three by adding thereto three new sections, designated sections three-a, five-b and five-c; and to amend and reenact section three, article nine of said chapter three, all relating generally to voting by absent voters; providing for registration and absentee ballot application by federal postcard application for certain persons, in accordance with the Uniformed and Overseas Citizens Absentee Voting Act of 1986; permitting simultaneous application by persons overseas for registration and for ballot and for primary and general election absent voter ballots; authorizing absentee voting by personal appearance for religious reasons in Saturday elections; setting forth procedure for voting special write-in absent voter's ballot by qualified absentee electors; providing an absent voter procedure in event of medical emergency; requiring the secretary of state to promulgate rules implementing the provisions of the Uniformed and Overseas Citizens Absentee Voting Act of 1986; and increasing penalty for crime of false swearing as to election matters.

Be it enacted by the Legislature of West Virginia:
That section forty-one, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections five, seven and twelve, article three of said chapter be amended and reenacted; that said article three be further amended by adding thereto three new sections, designated sections three-a, five-b and five-c; and that section three, article nine of said chapter three be amended and reenacted, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-41. Registration and transfer of registration by mail; form to be required and distribution thereof; receipt by county clerk thirty days prior to election before applicant entitled to vote therein; clerk to forward application if applicant outside jurisdiction, but resident of state; application forms to be made widely available by county clerk; form of application and information required.

(a) In addition to any procedures which may be used in effecting the biennial checkup as provided under section twenty-one of this article, central registration and transfer as provided under sections twenty-two and twenty-seven of this article, and the provision with respect to registration of absentee voters under section twenty-three of this article, any qualified person may register or transfer his registration by mail.

(b) Completed applications, when received by any county clerk not later than forty-two days and by the appropriate county clerk not later than thirty days before the following primary, general or special election, entitle the applicant to vote in such election if he is otherwise qualified. Any county clerk receiving an application from a person who does not reside in his county but who does reside elsewhere in the state shall forthwith forward such application to the proper county clerk. Each county clerk shall make an entry on such application of the date it is received by such clerk, and the application shall remain on file in the office of the clerk for at least two years from the date it was received.
(c) Applications for use pursuant to this section shall be made available by the county clerk to every adult person of the county, not registered, and to any registered voter of the county upon request. The application for use pursuant to this section shall be a uniform statewide application in a form to be prescribed by the secretary of state and shall include the information required under the form provisions of section nineteen of this article. The form, which shall be self-addressed, is to be as widely and freely distributed as possible and shall be a bifold self-mailer which shall be compatible with local systems of voter registration data collection and storage.

(d) In addition to the information required under the form provisions of section nineteen of this article, the form shall contain such other information as the secretary of state may reasonably require and shall also include the following information:

(1) Notice that those currently registered do not need to reregister unless they have moved or failed to vote at least once during a period covering two statewide primary and two general elections as indicated by their registration records;

(2) Instructions on how to fill out and submit the form and that the form must be received by the appropriate county clerk at least thirty days prior to the election at which the applicant may vote;

(3) Notice that registration or transfer is not complete until the form is received by the appropriate county clerk;

(4) Notice of a voter's right to register centrally;

(5) A warning to the voter that it is a crime to procure a false registration and notice of the felony offenses provided for in section forty-two of this article;

(6) Notice that political party enrollment is optional but, in order to vote in a primary election of a political party, a voter must enroll in that political party;

(7) Notice that the applicant must be a citizen of the
United States, at least seventeen years old and will be
eighteen years old on or before the next general election,
and a resident of the county to which application is
made;

(8) Notice that a voter notification form will be mailed
to those applicants whose complete form is received;

(9) A space for the applicant to indicate whether or
not he has ever been registered before and, if so, his
name and address at the time of prior registration;

(10) A space for the applicant to indicate his choice
of party, if any, in which space the names of all parties
are provided so that the applicant can check one with
a clear alternative provided for an applicant to decline
to affiliate with any party;

(11) A space for the applicant to indicate his social
security number; and

(12) A place for the applicant to execute the applica­
tion on a line which is clearly labeled “signature of
applicant” and contained in the following specific form
of oath or affirmation:

“I do solemnly swear or affirm that the information
provided in the preceding uniform statewide application
is true to the best of my knowledge, information and
belief, and I understand that if I willingly provide false
information concerning a material matter or thing
therein, I shall be deemed guilty of the felony offense
of perjury and shall be subject to the penalties for
perjury.

____________________________
Signature of Applicant

Subscribed and sworn (or affirmed) to before me, this
____ day of ____________, 19__

____________________________

which oath or affirmation shall be administered by a
person authorized to perform notarial acts under the
provisions of article one or one-a, chapter thirty-nine of
this code. The person administrating the oath or affirma-
tion shall not charge a fee for such act, and the uniform statewide application shall inform the person administering such oath or affirmation that no fee is to be charged.

(e) Any person who has registered or reregistered pursuant to this section shall be required to make his first vote in person at the poll or appear in person at the office of the clerk of the circuit court to vote an absentee ballot during a period covering two statewide primary elections and two general elections in order to make such registration valid: Provided, That any person who has registered or reregistered pursuant to this section and who has qualified for placement on the special absentee voting list pursuant to section two-b, article three of this chapter, who has qualified to vote an absent voter's ballot by mail pursuant to paragraphs one, two, three or six of the application for voting an absent voter's ballot by mail provided in section five, article three of this chapter, who has qualified to vote through the use of a federal postcard registration, or who has qualified to vote an absent voter's ballot under the provisions of section five-b or five-c, article three of this chapter, shall not be required to make his first vote in person but shall be required to vote during a period covering two statewide primary elections and two general elections next following his registration in order to make such registration valid.

Any such person required by this section to make his first vote in person in order to make his registration valid shall present valid identification and proof of age to the clerks at the poll or the clerk in the office of the circuit clerk of the county in which he is registered before casting his first ballot.

(f) The uniform statewide application prescribed in this section may refer to various public officials by title or official position (e.g., clerk of the county commission, secretary of state), but in no case may the actual name of the officeholder be printed or otherwise appear on such form: Provided, That nothing contained in this subsection shall prohibit a public official, otherwise qualified, from administering the oath or affirmation in
accordance with the provisions of subdivision (12),
subsection (d) of this section, and affixing his signature thereto.

(g) It shall be the duty of the secretary of state to create and commence distribution of the forms for the uniform statewide application within six months following the effective date of this section.

(h) Notwithstanding any other provision of this section, persons specified in subsection (2), section one, article three of this chapter may register by mail using the federal postcard application issued pursuant to the authority of the Uniformed and Overseas Citizens Absentee Voting Act of 1986, (Public Law 99-410, 42 U.S.C. 1973, et seq.).

The oath of the applicant using the federal postcard application shall not be required to be administered by a person authorized to perform notarial acts. Any federal postcard application received by the county clerk or circuit clerk which has been designated by the applicant as both an application for registration and a request for an absent voter's ballot shall be accepted for both purposes if all legal requirements are met.

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-3a. Voting absent voter's ballot by personal appearance in Saturday elections for religious reasons.

(a) In addition to the persons declared eligible to vote absent voters' ballots pursuant to the provisions of section one of this article, duly registered and otherwise qualified voters who are members of a religious denomination with an established history of observing Saturday as the sabbath may vote absentee by personal appearance in any election to be held on a Saturday.

(b) Application for an absent voter's ballot authorized by the provisions of this section shall be made on a form prescribed by the secretary of state. The procedures for voting by personal appearance set forth in section three of this article, to the extent not in conflict with the provisions of this section, shall otherwise govern the
§3-3-5. Voting an absent voter's ballot by mail; federal postcard application.

A person desiring to vote an absent voter's ballot by mail may, on or after the first day of January prior to the date of any primary, general or special election in the case of any person outside the continental limits of the United States and not more than eighty-four days prior to the date of any primary, general or special election in the case of any other person, make application by mail to the clerk of the circuit court of the county in which he is registered to vote for an official absent voter's ballot or ballots to be voted at such election. The clerk of the circuit court shall not honor any such application for an absent voter's ballot received by him after the fourth day next preceding the date of the election. In computing the fourth day, the day of conducting the election shall be excluded.

When a clerk receives a completed application to vote an absent voter's ballot by mail in more than one election in an election year from an applicant eligible to vote absentee under subsection (2), section one of this article, the clerk shall, if all legal requirements are met, forward to the applicant the appropriate ballot or ballots for each election held within that jurisdiction. The application to be used by persons who wish to vote an absent voter's ballot by mail shall be prescribed by the secretary of state and shall be in substantially the following form:

"APPLICATION FOR VOTING AN ABSENT VOTER'S BALLOT BY MAIL

KNOWING THAT I CAN BE FINED NOT MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED IN THE COUNTY JAIL FOR A PERIOD OF NOT MORE THAN ONE YEAR OR BOTH SUCH FINE AND IMPRISONMENT FOR KNOWINGLY MAKING A FALSE STATEMENT OR REPRESENTATION HEREIN, I, _________________, hereby declare that I am now, or will have been a resident of the state of West Virginia for twelve months, and of the
county of ____________, for thirty days, next preceding
the date of the ensuing election to be held on the
___________ day of ______, 19____; that I now reside
at _______________________________________
(give full address)
in the magisterial district of ________________________
in said county; that I am a duly qualified voter entitled
to vote in such election; that I am registered in the
precinct of my residence as provided by law; that I am
registered as a ___________________________; (state political
party if ballot is for primary election) and that (strike
out the numbered paragraphs not applicable and
complete the numbered paragraph which is applicable):

(1) I will be unable to vote in person at the polls on
election day because of _____________________________,
(state particulars of physical disability, illness or injury)
as evidenced below by the statement of a duly licensed
physician or chiropractor.

(2) I anticipate commitment to a hospital, institution
or other confinement on or about the _________
day of __________, 19____, for the following medical
reasons _______________________________________
as evidenced below by the statement of a duly licensed
physician or chiropractor, and by reason thereof will not
be able to vote in person at the polls in such election.

(3) I expect to be absent from the aforementioned
county in which I am registered to vote during the
entire time the polls are open in such election, and I am
(check one applicable):

□ A member of the armed forces in the active service.

□ A spouse or dependent of a member of the armed
forces in active service.

□ A member of the merchant marine of the United
States.

□ A spouse or dependent of a member of the mer-
chant marine of the United States.

□ A citizen of the United States temporarily residing
outside the territorial limits of the United States and the
A spouse or dependent residing with or
accompanying a citizen of the United States temporarily
residing outside the territorial limits of the United
States and the District of Columbia.

(4) I am required to be absent from the aforementi-
oned county in which I am registered during the entire
time the polls are open in such election for the reason
or reasons hereafter stated; I am not in any of the
categories referred to in paragraph (3) above; I am
required to be absent from said county during regular
business hours of the clerk of the circuit court of said
county throughout the period or throughout the re-
mainder of the period of voting an absent voter's ballot
by personal appearance at said office. ____________

(state reason or reasons for required
absence from county on election.)

(5) I have been appointed ____________
(state whether an election
commissioner or poll clerk)
in precinct No. ____________ in said election, which
precinct is not the precinct in which I am registered to
vote.

(6) I will be incarcerated in the county or city jail or
other detention facility located in this county on election
day but am not under sentence of treason, bribery or a
felony, as evidenced below by the statement of the
county sheriff, chief of police or authorized deputy.

In consideration of the foregoing qualifications, I
hereby make application for an official absent voter's
ballot (or ballots if more than one are to be used) to be
voted by me at such election, and request that such
ballot or ballots be mailed to me at the following
address:

(give full address for mailing purposes)

(Complete the following paragraph only if assistance
will be needed in voting absent voter's ballot):
I further declare that I will need assistance in voting an absent voter's ballot for the following reasons _____
(specify illiteracy or exact nature of physical
disability, illness or injury)

I hereby declare under the penalties for false swearing as provided in section three, article nine, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, that the statements and declarations contained in this application are true and correct to the best of my knowledge and belief.

________________________________
Signature of Applicant

(or in case the applicant is illiterate he shall make his mark and have it witnessed on the following lines):

________________________________
Mark of Applicant

________________________________
Signature of Witness”

If the person applying for an absent voter's ballot by mail be unable to sign his application because of illiteracy, he shall make his mark on the signature line above provided for an illiterate applicant which mark shall be witnessed.

The following declaration must be completed and signed if the reason specified in the above application for being unable to vote in person at such election is physical disability, illness or injury, or is anticipated confinement in a hospital, institution or other place for medical reasons.

“STATEMENT OF PHYSICIAN (CHIROPRACTOR)

I, ________________________________, hereby declare that I am a physician (chiropractor) duly licensed to practice in the state of ___________; that I last examined ________________________, the applicant whose signature appears on the application above on the
(1) The applicant will, because of _________________
    (state particulars of physical disability, illness or injury)
be unable to go to the polls on the ___ day of
_______, 19____, the date of the election.

(2) The applicant will, because of _________________
    (state for what medical reasons)
be confined in _________________, on or about the ________
day of ________, 19____, and will because of such
reasons not be able to go to the polls on the ___ day
of ________, 19____, the date of the election.

I am of the further opinion that applicant ____,
(will) (will not)
because of the aforementioned physical disability, illness
or injury need assistance in voting an absent voter's ballot.

Signature of Physician (Chiropractor)"

The following declaration must be completed and
signed if the reason specified in the above application
for being unable to vote in person at the election is
incarceration in a facility within the county for other
than conviction of treason, bribery or a felony:

“STATEMENT OF SHERIFF, CHIEF
OF POLICE OR AUTHORIZED DEPUTY
I, ________________________, hereby declare that
the applicant whose signature appears on the application above will be confined in the county or city jail or other detention facility on the ___ day of __________, 19__, the date of the election, and is not under conviction of treason, bribery or a felony.

SIGNATURE

TITLE

COUNTY

In lieu of the application for an absent voter's ballot provided above, those persons specified in subsection (2), section one of this article may use the federal postcard application for absent voter's ballot form issued under authority of the Uniformed and Overseas Citizens Absentee Voting Act of 1986, as amended (Public Law 99-410, 42 U.S.C. 1973, et seq.). Any such federal postcard application does not have to be executed pursuant to oath or attestation. Upon receipt of a properly completed copy of such form, the clerk of the circuit court shall process it the same as any other application for an absent voter's ballot by mail. Any such properly completed copy may be returned only to the clerk of the circuit court of the county in which the applicant is a registered voter.

Immediately upon receipt of a completed application for voting an absent voter's ballot by mail, the clerk of the circuit court shall determine (1) whether the application for voting such ballot has been completed as required by law; (2) whether he has evidence that any of the statements contained in the application are not true; and (3) whether the applicant is in fact duly registered in the precinct of his residence as provided by law and insofar as registration is concerned would be permitted to vote at the polls in such election. If the determination of the clerk of the circuit court as to (1) or (3) is in the negative or as to (2) is in the affirmative, the clerk shall notify the applicant at the time he mails the absent voter's ballot to him that he will challenge
the applicant's privilege to vote an absent voter's ballot
by mail for reasons which he shall indicate and, upon
receipt of the applicant's absent voter's ballot, the clerk
shall challenge such ballot.

Upon determination by the clerk of the circuit court
that the applicant is entitled to vote an absent voter's
ballot by mail or that the applicant will be permitted
to vote an absent voter's ballot by mail with such ballot
to be challenged by the clerk, the clerk shall between
the forty-second day and the fourth day next prior to the
election in which the absent voter's ballot is to be used,
mail to the applicant the following absentee voting
supplies: Provided, That the clerk shall mail such voting
supplies to an applicant whose address is shown to be
outside the continental limits of the United States by
priority airmail on the same day the application is
received in the clerk's office or on the next day
thereafter that he has both an application and a ballot:

(a) One official absent voter's ballot (or ballots if more
than one are to be used) which has been prepared in
accordance with law for use in such election; such ballot
in the case of a primary election shall be of the party
of the applicant's affiliation as indicated on his registra-
tion card or, in the case the applicant is not found to
be registered by the clerk but votes a ballot challenged
by the clerk, the clerk shall send to the applicant an
absent voter's ballot of the party designated by the
applicant in his application;

(b) One Absent Voter's Ballot Envelope No. 1,
unsealed, which shall have no writing thereon except the
designation "Absent Voter's Ballot Envelope No. 1";

(c) One Absent Voter's Ballot Envelope No. 2,
unsealed;

(d) Notice that an absent voter's ballot returned from
outside the continental limits of the United States must
be mailed priority airmail; and

(e) Notice that absent voters' ballots must be received
in the office of the clerk not later than the time of
closing of the polls.
Upon receipt of an absent voter's ballot by mail, the voter shall mark the ballot and the voter may have assistance in voting his absent voter's ballot in accordance with the provisions of section six of this article.

After the voter has voted his absent voter's ballot, he shall (1) enclose the same in Absent Voter's Ballot Envelope No. 1, and seal that envelope, (2) enclose sealed Absent Voter's Ballot Envelope No. 1 in Absent Voter's Ballot Envelope No. 2 and seal that envelope, (3) complete and sign the forms, if any, on Absent Voter's Ballot Envelope No. 2 according to the instructions thereon, and (4) mail, postage prepaid and, if from outside the continental limits of the United States, by priority airmail, the sealed Absent Voter's Ballot Envelope No. 2 to the clerk of the circuit court of the county in which he is registered to vote.

Upon receipt of such sealed envelope, the clerk shall (1) enter onto the envelope such information as may be required of him according to the instructions thereon; (2) enter his challenge, if any, to the absent voter's ballot; (3) enter the required information into a record of persons making application for and voting an absent voter's ballot by personal appearance or by mail or otherwise (the form of which record and the information to be entered therein shall be prescribed by the secretary of state); and (4) place such sealed envelope in a secure location in his office, there to remain until delivered to the polling place in accordance with the provisions of this article or, in case of a challenged ballot, to the county commission sitting as a body of canvassers.

§3-3-5b. Procedures for voting with special write-in absent voter's ballot by qualified persons.

(a) Notwithstanding any other provisions of this chapter, a person qualified to vote an absent voter's ballot, in accordance with subsection (2), section one of this article, may apply not earlier than ninety days before an election for a special write-in absentee ballot. This ballot shall be for presidential electors and United States senator or representative in Congress.
(b) The application for a special write-in absentee ballot may be made on the federal post card application form or on another form prescribed by the secretary of state.

(c) In order to qualify for a special write-in absent voter's ballot, the voter must state that he or she is unable to vote by regular absent voter's ballot or in person due to requirements of military service or due to living in isolated areas or extremely remote areas of the world. This statement may be made on the federal post card application or on a form prepared by the secretary of state and supplied and returned with the special write-in absent voter's ballot.

(d) Upon receipt of said application, the circuit clerk shall issue the special write-in absent voter's ballot which shall be prescribed and provided by the secretary of state. Such ballot shall permit the elector to vote by writing in a party preference for each office, the names of specific candidates for each office, or the name of the person whom the voter prefers for each office. Any such voted ballot must be received by the circuit clerk prior to the close of the polls on election day or it may not be counted.

§3-3-5c. Procedures for voting an emergency absent voter's ballot by qualified voters.

(a) Notwithstanding any other provision of this chapter, a person qualified to vote an absent voter's ballot, as defined in subsection (1), section one of this article, who is admitted, on or after the fourth day next preceding the election, to a hospital or other duly licensed health care facility within the county of their residence for emergency medical treatment, and who remains confined and is unable to vote at the polls on election day, may vote an emergency absent voter's ballot under the procedures established in this section.

(b) On or before the first Monday of the month next preceding the date on which any election is to be held the circuit clerk of each county shall notify the county commission of the number of sets of emergency absent voter ballot commissioners which he or she deems
necessary to perform the duties and functions hereinafter set forth.

(c) A set of emergency absent voter ballot commissioners at-large shall consist of two persons, appointed by the county commission in accordance with the procedure prescribed for the appointment of election commissioners under the provisions of section twenty-eight, article one of this chapter but without regard to magisterial district or precinct. Emergency absent voter ballot commissioners shall have the same qualifications and rights and take the same oath required under the provisions of this chapter for commissioners of elections. Such commissioners shall be compensated for services and expenses in the same manner as commissioners of election obtaining and delivering election supplies under the provisions of section forty-four, article one of this chapter.

(d) Upon request of the voter or a member of the voter's immediate family, the circuit clerk shall issue an application for an emergency absent voter ballot which shall be delivered by a set of the emergency absent voter ballot commissioners. The emergency absent voter ballot application shall be prescribed by the secretary of state and shall be in substantially the following form:

"APPLICATION FOR VOTING AN EMERGENCY ABSENT VOTER'S BALLOT

KNOWING THAT I CAN BE FINED NOT MORE THAN ONE THOUSAND DOLLARS AND IMPRISONED IN THE COUNTY JAIL FOR A PERIOD OF NOT MORE THAN ONE YEAR FOR KNOWINGLY MAKING A FALSE STATEMENT OR REPRESENTATION HEREIN, I, __________, hereby declare that I am now, or will have been a resident of the state of West Virginia for twelve months, and of the county of __________, for thirty days next preceding the date of the ensuing election to be held on the ____ day of __________, 19____; that I now reside at __________

__________

(give full address)
in the magisterial district of __________, in said
county; that I am a duly qualified voter entitled to vote
in such election; that I am registered in the precinct of
my residence as provided by law; that I am registered
as a ________________;

(1) I will be unable to vote in person at the polls on
election day because I have been confined in

(State name and location of facility)

since ________________
(State date confinement commenced)

because of ________________
(State particulars of illness or injury)

(2) My treating physician is ________________.

I hereby declare under the penalties for false swear-
ing as provided in section three, article nine, chapter
three of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, that the statements and
declarations contained in this application are true and
correct to the best of my knowledge and belief.

Signature of Applicant

(or in case the applicant is illiterate he
shall make his mark and have it witnessed
on the following lines):

Mark of Applicant

Signature of Witness"

If the person applying for an emergency absent voter's
ballot be unable to sign his application because of
illiteracy, he shall make his mark on the signature line
above provided for an illiterate applicant which mark
shall be witnessed.

The following declaration is to be completed and
signed by each of the emergency absent voter's ballot
94 commissioners:
95
96 "STATEMENT OF EMERGENCY ABSENT
VOTER'S BALLOT COMMISSIONERS

97 We, ______________ and ______________, hereby
declare that we are the duly appointed emergency
absent voter's ballot commissioners and have met the
applicant, whose name appears on the application above
at his or her place of confinement on the _____ day of
__________, 19__; and that in our opinion, the
applicant will, because of an emergency medical
confinement which commenced at least four days prior
to the election, be unable to go to the polls on the _____
day of __________, 19__, the date of the election.

107 We have determined that the applicant has been
confined in __________________________________________________________________________
109 (State name and location of facility)
110 since __________________________________________________________________________
112 (State date confinement commenced)
113 because of _______________________________________________________________________
114 (State particulars of illness or injury)
115 (Date) (Signature of Emergency Absent Voter's
116 Ballot Commissioner)
117
118 (Date) (Signature of Emergency Absent Voter's
119 Ballot Commissioner)"
120
(e) The circuit clerk, upon receiving a proper and
complete application for voting an emergency absent
voter's ballot no earlier than the fourth day next
preceding the election and no later than noon of election
day, shall supply to the emergency absent voter's ballot
commissioners the balloting materials as prescribed in
section five of this article. At least one of the emergency
absent voter ballot commissioners receiving the balloting
materials shall sign a receipt which shall be
attached to the application form. Each of the emergency
absent voter ballot commissioners shall deliver the
materials to the absent voter, await his or her comple-
tion of the ballot, and return the same to the circuit
clerk, and upon delivering the voted ballot to the circuit clerk, sign an oath that no person other than the absent voter voted the ballot. The voted ballot shall be returned to the circuit clerk prior to the close of the polls on election day. Any ballots received by the clerk after the time that delivery may reasonably be made but before the closing of the polls shall be treated as challenged absent voters’ ballots in accordance with the provisions of section ten of this article and in addition to those absent voters’ ballots subject to challenge as enumerated therein.

(f) If either or both of the emergency absent voter ballot commissioners should refuse to sign any application for voting an emergency absent voter’s ballot, then the voter shall be permitted to vote as an emergency absent voter and any such ballot shall be treated as a challenged absent voter’s ballot in accordance with the provisions of section ten of this article and in addition to those absent voters’ ballots subject to challenge as enumerated therein.

(g) Any voter who receives assistance in voting an emergency absentee voter’s ballot shall comply with the provisions of section six of this article. Any other provisions of this chapter relating to absent voter’s ballots not altered by the provisions of this section shall govern the treatment of emergency absent voter’s ballots.

§3-3-7. Delivery of absent voters’ ballots to polling places.

(a) Except as otherwise provided in this article, the absent voters’ ballots of each precinct, together with the applications therefor, the affidavits made in connection with assistance in voting, and such forms, lists and records as may be designated by the secretary of state, shall be delivered in a sealed carrier envelope to the election commissioner of the precinct at the time he picks up the official ballots and other election supplies as provided in section twenty-four, article one of this chapter.

(b) An absent voter’s ballot shall be delivered by the clerk of the circuit court to the election commissioners
of the precinct in which the voter thereof is registered, or if not found to be registered, to the election commis-

sioner of the precinct in which his residence as stated on the voter's application is located.

(c) Absent voters' ballots received after the election commissioner has picked up the official ballots and other election supplies for the precinct shall be delivered to the election commissioner of the precinct who has been so designated under aforementioned section twenty-four, article one, by the clerk in person, or by messenger, before the closing of the polls, provided such ballots are received by the clerk in time to make such delivery. Any ballots received by the clerk after the time that delivery may reasonably be made but before the closing of the polls, shall be treated as challenged absent voters' ballots in accordance with the provisions of section ten of this article and in addition to those absent voters' ballots subject to challenge as enumerated therein.

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

The secretary of state shall make, amend and rescind such rules, regulations, orders and instructions, and prescribe such forms, lists and records, and consolidation of such forms, lists and records as may be necessary to carry out the policy of the Legislature as contained in this article and as may be necessary to provide for an effective, efficient and orderly administration of the absent voter law of this state. In the case of West Virginia voters residing outside the continental United States, the secretary of state shall promulgate rules and regulations necessary to implement procedures relating to absent voters contained in the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (P.L. 99-410, 42 U.S.C. 1973, et seq.) and shall forward a copy of the act to all circuit court clerks and clerks of the county commissions within ninety days of the effective date of this section.

It shall be the duty of all clerks of the circuit court,
other county officers, and all election commissioners and
poll clerks to abide by such rules, regulations, orders
and instructions and to use such forms, lists and records
which, without limiting the foregoing, may include or
relate to:

(a) The consolidation of the two application forms
provided for herein into one form;

(b) The size and form of Absent Voter's Ballot
Envelope Nos. 1 and 2, and carrier envelopes;

(c) The forms and information which shall be placed
on Absent Voter's Ballot Envelope No. 2;

(d) The forms and manner of making the challenges
to absent voters' ballots authorized by this article;

(e) The forms of, information to be contained in, and
consolidation of lists and records pertaining to applica-
tions for, and voting of, absent voters' ballots and
assistance to persons voting absent voters' ballots;

(f) The supplying of application forms, envelopes,
challenge forms, lists, records, and other forms;

(g) The keeping and security of voted absent voters'
balloons in the office of the clerk of the circuit court.

ARTICLE 9. OFFENSES AND PENALTIES.

§3-9-3. False swearing; penalties.

(a) If any election official, or other person, making any
affidavit required under any provision of this chapter,
shall therein knowingly swear falsely, or if any person
shall counsel, advise, aid or abet another in the
commission of false swearing, he shall be guilty of a
misdemeanor, and, on conviction therefor shall be fined
not less than fifty nor more than one thousand dollars
and imprisoned in the county jail for a period of not
more than one year.

(b) If any person making any declaration required
under any provision of this chapter shall knowingly
make a false statement or representation therein, or if
any person shall counsel, advise, aid or abet another to
make such a declaration containing any false statement
or representation, any such person shall be deemed to
be guilty of false swearing although no oath was
administered, and such offense is hereby declared to be
a misdemeanor. Upon conviction of such offense, any
such person shall be fined not less than fifty nor more
than one thousand dollars and imprisoned in the county
jail for a period of not more than one year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ........... this the .......... day of ........... 1988.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/2/88
Time 5:08 p.m.