

117.086 Marking of absentee ballot -- Secure drop-boxes and receptacles -- Voting before day of election -- Locking of ballot boxes and equipment -- Clerk's duty to keep separate lists for votes cast by mail-in absentee ballot, by in-person voting, and by federal provisional in-person absentee ballot -- Report on rejected absentee ballots.

- (1)
 - (a) The voter returning his or her absentee ballot to the county clerk by mail, hand delivery, or to a secure drop-box or receptacle, shall mark his or her ballot, seal it in the secrecy envelope, and then seal the outer envelope.
 - (b) The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A person having power of attorney for the voter and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form as required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. A resident of Kentucky who is a covered voter as defined in KRS 117A.010 who has received an absentee ballot transmitted by facsimile machine or by means of the electronic transmission system established under KRS 117A.030(4) shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the State Board of Elections by administrative regulation under KRS Chapter 13A. In order to be counted, all mail-in absentee ballots shall be received by the county clerk no later than the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.
- (2)
 - (a) The county clerk shall provide a minimum of one (1) secure ballot drop-box to receive voted mail-in absentee ballots for each primary, regular election, or special election. Public notice of all secure ballot drop-box locations shall be given in the same manner as provided under subsection (5) of this section, and posted to the Web site of the county clerk.
 - (b) The county board of elections may seek the State Board of Elections' approval of a ballot receptacle to receive voted mail-in absentee ballots for each primary, regular election, or special election. Public notice of all secure ballot receptacle locations shall be given in the same manner as provided under subsection (5) of this section, and posted to the Web site of the county clerk. Before any mail-in absentee ballot shall be allowed to be deposited inside a receptacle, the county board of elections shall inform the State Board of Elections of:
 1. The number of receptacles to be used;
 2. The type of each receptacle to be used; and
 3. The receptacle location.
 - (c) Any drop-box or receptacle located outside of the county clerk's office shall be:
 1. Placed in a well-lit and easily accessible location;

2. Secured to ensure immobility while in use;
 3. Under video surveillance at all times;
 4. Tamper-resistant; and
 5. Conspicuously noted as a mail-in absentee ballot drop-off location.
- (d) A drop-box or receptacle located inside the county clerk's office shall be under direct supervision of the staff of the county clerk at all times and be accessible to the public.
- (e) Each receptacle or drop-box shall be emptied by the county clerk and at least one (1) member of the county board of elections who is not of the same political affiliation as the county clerk at least once each business day or more frequently, as needed, to reasonably secure and accommodate the volume of the voter-delivered mail-in absentee ballots. The ballots deposited in the drop-box or receptacle shall be removed with a record of the date and time ballots were removed, and the names of the persons removing them. If the drop-box or receptacle is located outside the county clerk's office, the ballots shall be returned to the county clerk in locked transport containers, and the county clerk shall transfer the ballots upon receipt in accordance with subsection (7) of this section.
- (f) Except for those times ballots are being removed and transported from a secure ballot drop box to the county clerk as provided in this subsection, the county clerk and at least one (1) member of the county board of elections who is not of the same political affiliation as the county clerk shall retain the keys to all secure ballot drop-boxes, receptacles, and transport containers in use in the county.
- (g) The State Board of Elections may establish additional security measures and procedures for the use of the ballot drop-box or receptacle through administrative regulations promulgated under KRS Chapter 13A.
- (3) Any voter who shall be absent from the county on election day, but who does not qualify to receive a mail-in absentee ballot under the provisions of KRS 117.085, and all voters qualified to vote prior to the election under the provisions of KRS 117.085, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election in accordance with KRS 117.085. The county clerk may provide for voting by the voting equipment in general use in the county or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:
- (a) Any voter qualifying to vote who receives assistance to vote shall complete the voter assistance form required by KRS 117.255;
 - (b) Any voter qualifying to vote whose qualifications are challenged on grounds other than inability to provide proof of identification by any clerk or deputy shall complete an "Oath of Voter" affidavit; and
 - (c) Any voter qualifying to vote who is unable to provide proof of identification as defined in KRS 117.001 may cast an in-person absentee ballot or federal

provisional in-person absentee ballot in accordance with KRS 117.228 or 117.229.

- (4) When the county clerk uses general voting equipment as provided for in subsection (3) of this section, each voter casting his or her vote in-person absentee shall sign an "In-Person Absentee Ballot Signature Roster."
- (5) The county clerk shall designate a location within the clerk's office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than the clerk's main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424, and similar notice by mail shall be given to the county chairs of the two (2) political parties whose candidates polled the largest number of votes in the county at the last regular election.
- (6) The State Board of Elections shall promulgate administrative regulations under KRS Chapter 13A to provide for casting ballots in accordance with subsection (3) of this section.
- (7) Upon receipt of a mail-in ballot, the county clerk shall scan the barcode or label that is unique to the individual voter to note the receipt of the mail-in absentee ballot, and deposit all of the mail-in absentee ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by at least three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are processed, reviewed or counted under KRS 117.087. All voting equipment on which ballots are cast as permitted in subsection (3) of this section shall also remain locked and the keys shall be retained by at least three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.
- (8) The county clerk shall keep separate lists for each election of all persons who:
 - (a) Return their mail-in absentee ballots;
 - (b) Cast their in-person absentee ballots; and
 - (c) Cast their federal provisional in-person absentee ballots under subsection (3)(c) of this section.

The county clerk shall send a copy of each list to the State Board of Elections after any primary or election day. Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, each list of all persons who return their mail-in absentee ballots or who cast their ballots in the clerk's office or other designated and approved place shall not be made public until after the close of business hours on the primary or election day for which the list applies, except when provided to the county board of elections under KRS 117.087. The county clerk and the Secretary of State shall keep a record of the number of votes cast by each method listed in paragraphs (a) to (c) of this subsection, which are cast in any primary or election as a part of the official returns of the primary or election.

- (9) The county board of elections shall report to the State Board of Elections within ten

(10) days after any primary or regular election as to the number of rejected absentee ballots, including rejected mail-in absentee ballots and ballots cast under subsection (3) of this section, and the reasons for rejecting the ballots on a form prescribed and furnished by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 197, sec. 12, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 89, sec. 7, effective July 15, 2020. -- Amended 2013 Ky. Acts ch. 124, sec. 3, effective June 25, 2013; and ch. 131, sec. 23, effective July 1, 2014. -- Amended 2002 Ky. Acts ch. 3, sec. 3, effective February 15, 2002. -- Amended 2000 Ky. Acts ch. 134, sec. 2, effective March 17, 2000. -- Amended 1998 Ky. Acts ch. 243, sec. 7, April 1, 1998; and ch. 386, sec. 2, effective April 7, 1998. -- Amended 1994 Ky. Acts ch. 394, sec. 12, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 48, sec. 19, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 341, sec. 28, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 287, sec. 6, effective July 15, 1986; and ch. 470, sec. 10, effective July 15, 1986. -- Repealed and reenacted 1980 Ky. Acts ch. 73, sec. 2, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 71, sec. 2, effective June 17, 1978. -- Created 1974 Ky. Acts ch. 130, sec. 46, effective June 21, 1974.

Formerly codified as KRS 117.325