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SENATE BILL NO. 118

Offered January 12, 2022

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A BILL to amend and reenact §§ 24.2-411.3, 24.2-643, 24.2-653, 24.2-653.01, 24.2-701, and 24.2-701.1 of the Code of Virginia, relating to voter identification; identification containing a photograph required.

 Patron—Chase

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-411.3, 24.2-643, 24.2-653, 24.2-653.01, 24.2-701, and 24.2-701.1 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-411.3. Registration of Department of Motor Vehicles customers.

A. Each person coming into an office of the Department of Motor Vehicles or accessing its website in order to (i) apply for, replace, or renew a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 except driver privilege cards or permits issued pursuant to § 46.2-328.3 or identification privilege cards issued pursuant to § 46.2-345.3; or (ii) change an address on an existing driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 except driver privilege cards or permits issued pursuant to § 46.2-328.3 or identification privilege cards issued pursuant to § 46.2-345.3 shall be presented with (a) a question asking whether or not the person is a United States citizen and (b) the option to decline to have his information transmitted to the Department of Elections for voter registration purposes. The citizenship question and option to decline shall be accompanied by a statement that intentionally making a materially false statement during the transaction constitutes election fraud and is punishable under Virginia law as a felony.

The Department of Motor Vehicles may not transmit the information of any person who so declines. The Department of Motor Vehicles may not transmit the information of any person who indicates that he is not a United States citizen, nor may such person be asked any additional questions relevant to voter registration but not relevant to the purpose for which the person came to an office of the Department of Motor Vehicles or accessed its website.

B. For each person who does not select the option to decline to have his information transmitted to the Department of Elections for voter registration purposes and who has identified himself as a United States citizen, the Department of Motor Vehicles shall request any information as may be required by the State Board to ensure that the person meets all voter registration eligibility requirements.

C. The Department of Motor Vehicles shall electronically transmit to the Department of Elections, in accordance with the standards set by the State Board, the information collected pursuant to subsection B for any person who (i) has indicated that he is a United States citizen, (ii) has indicated that he is 17 years of age or older, and (iii) at the time of such transaction did not decline to have his information transmitted to the Department of Elections for voter registration purposes.

D. The Department of Elections shall use the information transmitted to determine whether a person already has a registration record in the voter registration system.

1. For any person who does not yet have a registration record in the voter registration system, the Department of Elections shall transmit the information to the appropriate general registrar. The general registrar shall accept or reject the registration of such person in accordance with the provisions of this chapter.

2. For any person who already has a registration record in the voter registration system, if the information indicates that the voter has moved within the Commonwealth, the Department of Elections shall transmit the information and the registration record to the appropriate general registrar, who shall treat such transmittal as a request for transfer and process it in accordance with the provisions of this chapter.

3. General registrars shall not register any person who does not satisfy all voter eligibility requirements.

E. The Department of Motor Vehicles shall provide voter photo identification cards containing the voter's photograph and signature free of charge upon request to those voters who do not have one of the valid forms of identification specified in subsection B of § 24.2-643.

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the

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59 voting booth and furnishing an official ballot to him.

60 B. An officer of election shall ask the voter for his full name and current residence address and the
61 voter may give such information orally or in writing. The officer of election shall verify with the voter
62 his full name and address and shall repeat, in a voice audible to party and candidate representatives
63 present, the full name provided by the voter. The officer shall ask the voter to present any one of the
64 following forms of identification: (i) ~~his voter confirmation documents~~; (ii) his valid Virginia driver's
65 license, his valid United States passport, or any other identification *containing a photograph of the voter*
66 *and* issued by the Commonwealth, one of its political subdivisions, or the United States, other than a
67 driver privilege card issued under § 46.2-328.3 or an identification privilege card issued under
68 § 46.2-345.3; (iii) *(ii)* any valid student identification card *containing a photograph of the voter and*
69 *issued by any institution of higher education located in the Commonwealth or any private school located*
70 *in the Commonwealth*; (iv) ~~any valid student identification card containing a photograph of the voter~~
71 ~~and issued by any institution of higher education located in any other state or territory of the United~~
72 ~~States~~; (v) *or* (iii) any valid employee identification card containing a photograph of the voter and issued
73 *in the Commonwealth* by an employer of the voter in the ordinary course of the employer's business; ~~or~~
74 (vi) a copy of a current utility bill, bank statement, government check, paycheck, or other government
75 document containing the name and address of the voter. The expiration date on a Virginia driver's
76 license shall not be considered when determining the validity of the driver's license offered for purposes
77 of this section. *No form of identification containing a printed expiration date pre-dating the day of the*
78 *election for which it is presented shall be considered valid.*

79 Except as provided in subsection E, any Any voter who does not show one of the forms of
80 identification specified in this subsection shall be allowed to vote after signing a statement, subject to
81 felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter he
82 claims to be. A voter who requires assistance in voting by reason of a physical disability or an inability
83 to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of
84 this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are
85 unable to sign shall be followed when assisting a voter in completing this statement. A voter who does
86 not show one of the forms of identification specified in this subsection and does not sign this statement
87 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections
88 shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar
89 or electoral board other than matching submitted identification documents from the voter for the
90 electoral board to make a determination on whether to count the ballot.

91 If the voter presents one of the forms of identification listed above, if his name is found on the
92 pollbook in a form identical to or substantially similar to the name on the presented form of
93 identification and the name provided by the voter, if he is qualified to vote in the election, and if no
94 objection is made, (a) an officer shall enter, opposite the voter's name on the pollbook, the first or next
95 consecutive number from the voter count form provided by the State Board, or shall enter that the voter
96 has voted if the pollbook is in electronic form; (b) an officer shall provide the voter with the official
97 ballot; and (c) another officer shall admit him to the voting booth. Each voter whose name has been
98 marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the
99 officers of election in the polling place until he has voted. If a line of voters who have been marked on
100 the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be
101 permitted to extend outside of the room containing the voting booths and shall remain under observation
102 by the officers of election.

103 A voter may be accompanied into the voting booth by his child age 15 or younger.

104 C. If the current residence address provided by the voter is different from the address shown on the
105 pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the
106 State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties
107 for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an
108 envelope provided for such forms for transmission to the general registrar who shall then transfer or
109 cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.).

110 D. At the time the voter is asked his full name and current residence address, the officer of election
111 shall ask any voter for whom the pollbook indicates that an identification number other than a social
112 security number is recorded on the Virginia voter registration system if he presently has a social security
113 number. If the voter is able to provide his social security number, he shall be furnished with a voter
114 registration form prescribed by the State Board to update his registration information. Upon its
115 completion, the form shall be placed by the officer of election in an envelope provided for such forms
116 for transmission to the general registrar. Any social security numbers so provided shall be entered by the
117 general registrar in the voter's record on the voter registration system.

118 E. This subsection shall apply in the case of any individual who is required by subparagraph (b) of
119 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes
120 in a federal election in the state. At such election, such individual shall present (i) a current and valid

photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. Such individual who desires to vote in person but does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. The identification requirements of subsection B of this section and subsection A of § 24.2-653 shall not apply to such voter at such election. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

§ 24.2-653. Provisional voting; procedures in polling place.

A. Any person voting provisionally pursuant to subsection B of § 24.2-643, § 24.2-651.1, subsection B of § 24.2-652, or § 24.2-653.1 or 24.2-653.2 shall be given a printed ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the Department of Elections, the identifying information required on the envelope, including the last four digits of his social security number, if any, full name including the maiden or any other prior legal name, date of birth, complete address, and signature. Such person shall be asked to present one of the forms of identification specified in subsection B of § 24.2-643. If he is unable to present one of these forms of identification, he shall sign a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be. The officers of election shall note on the green envelope whether or not the voter has presented one of the specified forms of identification or signed the required statement in lieu of presenting one of the specified forms of identification. The officers of election shall enter the appropriate information for the person in the precinct provisional ballots log in accordance with the instructions of the State Board but shall not enter a consecutive number for the voter on the pollbook nor otherwise mark his name as having voted.

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the printed ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then promptly be placed in the ballot container by an officer of election.

B. An officer of election, by a written notice given to the voter, shall inform him that a determination of his right to vote shall be made by the electoral board and advise the voter of the beginning time and place for the board's meeting and of the voter's right to be present at that meeting. If the voter is voting provisionally as required by § 24.2-643, an officer of election, by written notice given to the voter, shall also inform him that he may submit a copy of one of the forms of identification specified in subsection B of § 24.2-643 or a statement, signed by him subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be to the electoral board by facsimile, electronic mail, in-person submission, or timely United States Postal Service or commercial mail delivery, to be received by the electoral board no later than noon on the third day after the election.

C. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes contained therein, and signed by the officers of election who counted them. All provisional votes envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

§ 24.2-653.01. Provisional ballots; electoral boards to make determination as to validity.

A. The electoral board shall meet on the day following the election and determine whether each person having submitted a provisional vote pursuant to § 24.2-653 was entitled to do so as a qualified voter in the precinct in which he offered the provisional vote. In the case of persons voting provisionally pursuant to § 24.2-653.3, the electoral board shall determine of which district the person is a qualified voter. At the meeting, the voter may request an extension of the determination of the provisional vote in order to provide information to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-401. The electoral board shall have the authority to grant such extensions that it deems reasonable to determine the status of a provisional vote.

If the board is unable to determine the validity of all the provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot an extension, the meeting shall stand adjourned, not to exceed seven calendar days from the date of the election, until the board has determined the validity of all provisional ballots offered in the election.

B. The electoral board shall permit one authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election to remain in the room in which the determination is being made as an observer so long as he does not participate in the proceedings and does not impede the orderly conduct of the determination. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative, who is not himself a candidate or party chairman, shall present to

the electoral board a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. If the county or city chairman is unavailable to sign such a written designation, such a designation may be made by the state or district chairman of the political party. However, no written designation made by a state or district chairman shall take precedence over a written designation made by the county or city chairman. Such statement, bearing the chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.

Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), attendance at meetings of the electoral board to determine the validity of provisional ballots shall be permitted only for the authorized representatives provided for in this subsection, for the persons whose provisional votes are being considered and their representative or legal counsel, and for appropriate staff and legal counsel for the electoral board.

C. If the electoral board determines that such person was not entitled to vote as a qualified voter in the precinct or district in which he offered the provisional vote, is unable to determine his right to vote, or has not been provided one of the forms of identification specified in subsection B of § 24.2-643, ~~or the signed statement that the voter is the named registered voter he claims to be,~~ the envelope containing his ballot shall not be opened and his vote shall not be counted. The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly registered or whose provisional vote was not counted.

The provisional vote shall be counted if (i) such person is entitled to vote in the precinct pursuant to § 24.2-401 or (ii) the Department of Elections or the voter presents proof that indicates the voter submitted an application for registration to a state-designated voter registration agency or the voter's information was transmitted by the Department of Motor Vehicles to the Department of Elections pursuant to § 24.2-411.3 prior to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was qualified for registration based upon the application for registration submitted by the person pursuant to subsection B of § 24.2-652.

If the electoral board determines that such person was entitled to vote, the name of the voter shall be entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and the ballot shall be placed in a ballot container without any inspection further than that provided for in § 24.2-646.

D. On completion of its determination, the electoral board shall proceed to count such ballots and certify the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No adjustment shall be made to the statement of results for the precinct in which the person offered to vote. However, any voter who cast a provisional ballot and is determined by the electoral board to have been entitled to vote shall have his name included on the list of persons who voted that is submitted to the Department of Elections pursuant to § 24.2-406.

E. The certification of the results of the count together with all ballots and envelopes, whether open or unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

§ 24.2-701. Application for absentee ballot.

A. The Department shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The Department shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703 or 24.2-703.1, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any covered voter, as defined in § 24.2-452.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all elections.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the

applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be completed only in the office of the general registrar and signed by the applicant in the presence of a registrar. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643; or if he is unable to present one of the specified forms of identification listed in that subsection, he shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be. An applicant who requires assistance in voting by reason of a physical disability or an inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 or does not sign this statement shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

This paragraph shall apply in the case of any individual who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes in a federal election in the state. At such election, such individual shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. Such individual who desires to vote in person but does not show one of the forms of identification specified in this paragraph shall be offered a provisional ballot under the provisions of § 24.2-653. The identification requirements of subsection B of § 24.2-643 and subsection A of § 24.2-653 shall not apply to such voter at such election. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

2. Any other application may be made by mail, by electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or to the office of the Department if a device is not available locally, or by other means. The application shall be on a form furnished by the registrar or as specified in subdivision 3. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote.

3. The application of any covered voter, as defined in § 24.2-452, may be on a federal postcard application, as defined in § 24.2-452. The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name and the last four digits of the applicant's social security number. However, an applicant completing the application in person shall not be required to provide the last four digits of his social security number;

2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any covered voter, as defined in § 24.2-452, who is not a registered voter may file the applications to register and for a ballot simultaneously; and

3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person.

D. An application shall not be required for any registered voter appearing in person to cast an absentee ballot pursuant to § 24.2-701.1.

§ 24.2-701.1. Absentee voting in person.

A. Absentee voting in person shall be available on the forty-fifth day prior to any election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election. In the case of a special election, excluding for federal offices, if time is insufficient between the issuance of the writ calling for the special election and the date of the special election, absentee voting in person shall be available as soon as possible after the issuance of the writ.

Any registered voter offering to vote absentee in person shall provide his name and his residence

305 address in the county or city in which he is offering to vote. After verifying that the voter is a registered
306 voter of that county or city, the general registrar shall enroll the voter's name and address on the
307 absentee voter applicant list maintained pursuant to § 24.2-706.

308 Except as provided in subsection F, a registered voter voting by absentee ballot in person shall
309 provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show
310 one of the forms of identification specified in subsection B of § 24.2-643, he shall be allowed to vote
311 after signing a statement, subject to felony penalties for false statements pursuant to ~~§ 24.2-1016~~, that he
312 is the named registered voter he claims to be. A voter who requires assistance in voting by reason of a
313 physical disability or an inability to read or write, and who requests assistance pursuant to ~~§ 24.2-649~~,
314 may be assisted in preparation of this statement in accordance with that section. The provisions of
315 ~~§ 24.2-649~~ regarding voters who are unable to sign shall be followed when assisting a voter in
316 completing this statement. A voter who does not show one of the forms of identification specified in
317 this subsection or does not sign this statement shall be offered a provisional ballot under the provisions
318 of § 24.2-653. The State Board shall provide instructions to the general registrar for the handling and
319 counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

320 B. Absentee voting in person shall be available during regular business hours. The electoral board of
321 each county and city shall provide for absentee voting in person in the office of the general registrar or
322 a voter satellite office established pursuant to § 24.2-701.2. For purposes of this chapter, such offices
323 shall be open to the public a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on
324 the first and second Saturday immediately preceding all elections. The electoral board or general
325 registrar may provide for absentee voting in person in such offices on Sundays. Any applicant who is in
326 line to cast his ballot when the office of the general registrar or voter satellite office closes shall be
327 permitted to cast his absentee ballot that day.

328 C. The general registrar may provide for the casting of absentee ballots in person pursuant to this
329 section on voting systems. The Department shall prescribe the procedures for use of voting systems. The
330 procedures shall provide for absentee voting in person on voting systems that have been certified and
331 are currently approved by the State Board. The procedures shall be applicable and uniformly applied by
332 the Department to all localities using comparable voting systems.

333 D. At least two officers of election shall be present during all hours that absentee voting in person is
334 available and shall represent the two major political parties, except in the case of a party primary, when
335 they may represent the party conducting the primary. However, such requirement shall not apply when
336 (i) voting systems that are being used pursuant to subsection C are located in the office of the general
337 registrar or voter satellite office and (ii) the general registrar or an assistant registrar is present.

338 E. The Department shall include absentee ballots voted in person in its instructions for the
339 preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.

340 F. This subsection shall apply in the case of any individual who is required by subparagraph (b) of
341 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes
342 in a federal election in the state. At such election, such individual shall present (i) a current and valid
343 photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck,
344 or other government document that shows the name and address of the voter. Such individual who
345 desires to vote in person but who does not show one of the forms of identification specified in this
346 subsection shall be offered a provisional ballot under the provisions of ~~§ 24.2-653~~. The identification
347 requirements of subsection B of ~~§ 24.2-643~~ and subsection A of ~~§ 24.2-653~~ shall not apply to such
348 voter at such election. The Department of Elections shall provide instructions to the electoral boards for
349 the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.