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HOUSE BILL NO. 310

Offered January 12, 2022

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A BILL to amend and reenact §§ 24.2-701, 24.2-703.1, 24.2-706, and 24.2-707 of the Code of Virginia, relating to absentee voting; application requirements; absentee ballot requirements.

 Patron—Ransone

 Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-701, 24.2-703.1, 24.2-706, and 24.2-707 of the Code of Virginia are amended and reenacted as follows:

§ 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

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59 election. The Department of Elections shall provide instructions to the electoral boards for the handling
60 and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

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

67 3. The application of any covered voter, as defined in § 24.2-452, may be on a federal postcard
68 application, as defined in § 24.2-452. The federal postcard application may be accepted the later of (i)
69 12 months before an election or (ii) the day following any election held in the twelfth month prior to
70 the election in which the applicant is applying to vote.

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

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

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

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

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

89 **§ 24.2-703.1. Special annual applications for absentee ballots for certain voters with an illness**
90 **or disability.**

91 A. Any registered voter *with a disability or illness who is unable to vote in person because of his*
92 *disability or illness* shall be eligible to file a special application to receive absentee ballots for all
93 elections in which he is eligible to vote *in a calendar year. Such His first such* application shall be
94 *accompanied by a statement, on a form approved by the State Board and signed by the voter and his*
95 *physician, provider as defined in § 37.2-403, or accredited religious practitioner, that the voter has a*
96 *disability or illness and is unable to vote in person because of that disability or illness. The absentee*
97 *ballots sent to a voter on the permanent absentee voter list shall be sent to the address in the voter's*
98 *registration record, except as provided in subdivision C 1.*

99 B. In accordance with procedures established by the State Board, the general registrar shall retain the
100 application, enroll the applicant on a ~~permanent absentee voter~~ *special absentee voter applicant* list, and
101 process the applicant's request for an absentee ballot for each succeeding election *in the calendar year.*
102 The applicant shall specify by party designation the primary ballots he is requesting.

103 *The general registrar shall send each such enrolled applicant a blank application by December 15*
104 *for each ensuing calendar year, and upon completion thereof, the applicant shall be eligible to receive*
105 *ballots for all elections in which he is eligible to vote in that calendar year.*

106 C. The State Board shall prescribe the process by which a voter on the permanent absentee voter list
107 may:

108 1. Request that his absentee ballot for (i) a single election or (ii) a primary election and the
109 following general election be sent to an address other than the address on his voter registration record.

110 2. Request a primary ballot for a political party other than the one he specified on his application for
111 permanent absentee voter status for a single primary election.

112 3. Change his political party selection for all succeeding primary elections.

113 D. A voter shall be removed from the ~~permanent absentee voter~~ *special absentee voter applicant* list
114 if (i) the voter requests in writing to be removed from the list, (ii) the voter's registration is canceled
115 pursuant to § 24.2-427, (iii) the voter's registration is placed on inactive status pursuant to § 24.2-428 or
116 24.2-428.1, or (iv) the voter moves to a different address not in the same county or city of his
117 registration, and *no ballot for any subsequent election shall be sent to the voter until a new application*
118 *is filed and accepted.*

119 **§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

120 A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name and

address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications received. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

C. If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is _____ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of _____ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter _____

Date _____

Signature of witness _____ "

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

When this statement has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

3. An envelope, A properly addressed and postage prepaid, envelope for the return of the ballot to the general registrar by mail or by the applicant in person, or to a drop-off location.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot. Such instructions shall include information on the sites of all drop-off locations in the county or city.

For federal elections held after January 1, 2004, for any voter 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 the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of 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 by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as

182 a provisional ballot under the provisions of § 24.2-653.01. The Department of Elections shall provide
183 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
184 § 24.2-653.01 and this section.

185 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee
186 Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to
187 the voting rights and responsibilities for such citizens, or information provided by the registrar specific
188 to the status of the voter registration and absentee ballot application of such voter, may be included.

189 The envelopes and instructions shall be in the form prescribed by the Department of Elections.

190 D. The general registrar may contract with a third party for the printing, assembly, and mailing of
191 the items set forth in subsection C. The general registrar shall provide to the contractor in a timely
192 manner the names, addresses, precincts, and ballot styles of voters requesting an absentee ballot by mail.
193 The vendor shall provide to the general registrar a report of the voters to whom the absentee ballot
194 materials have been sent.

195 E. If the applicant completes his application in person under § 24.2-701 at a time when the printed
196 ballots for the election are available, he may request that the general registrar send to him by mail the
197 items set forth in subdivisions C 1 through 4, instead of casting the ballot in person. Such request shall
198 be made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers
199 to vote, and the general registrar shall send those items to the applicant by mail, obtaining a certificate
200 or other evidence of mailing.

201 F. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time
202 when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612
203 or deliver in person to the applicant in the office of the general registrar the items as set forth in
204 subdivisions C 1 through 4 and, if necessary, an application for registration. A certificate or other
205 evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic
206 transmission, the general registrar, at the time when the printed ballots for the election are available but
207 not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot,
208 the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials
209 shall be sent using the official email address or fax number of the office of the general registrar
210 published on the Department of Elections website. The State Board of Elections may prescribe by
211 regulation the format of the email address used for transmitting ballots to eligible voters. A general
212 registrar may also use electronic transmission facilities provided by the Federal Voting Assistance
213 Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

214 G. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this
215 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole
216 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur,
217 or (iii) the campaign committee or the appropriate district political party chairman of such candidate.
218 Any person who fails to discharge his duty as provided in this section through willful neglect of duty
219 and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of
220 § 24.2-1001.

221 **§ 24.2-707. How ballots marked and returned.**

222 A. On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the
223 sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644
224 and 24.2-646 without assistance and without making known how he marked the ballot, except as
225 provided by § 24.2-704.

226 After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope
227 provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of
228 the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot
229 envelope and any required assistance form within the envelope directed to the general registrar, and (e)
230 seal that envelope. *A voter's failure to have a witness sign the absentee ballot envelope shall be*
231 *considered a material omission and shall render his ballot void. However, a voter's failure to provide in*
232 *the statement on the back of the envelope his full middle name or his middle initial shall not be a*
233 *material omission, rendering his ballot void, unless the voter failed to provide in the statement on the*
234 *back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the*
235 *date, including the year, on which he signed the statement printed on the back of the envelope shall also*
236 *not be considered a material omission and shall not render his ballot void. A voter's failure to have a*
237 *witness sign the absentee ballot return envelope for any election held during a declared state of*
238 *emergency related to a communicable disease of public health threat shall not be considered a material*
239 *omission and shall not render his ballot void.*

240 B. A mailed absentee ballot shall be returned (i) by mail to the office of the general registrar, (ii) by
241 the voter in person to the general registrar, or (iii) to a drop-off location established pursuant to §
242 24.2-707.1. For purposes of this subsection, "mail" includes a delivery by a commercial delivery service
243 but does not include delivery by a personal courier service or other individual except as provided by §§

244 24.2-703.2 and 24.2-705.

245 C. Failure to follow the procedures set forth in this section shall render the applicant's ballot void.

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