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HOUSE BILL NO. 929

Offered January 11, 2006

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A BILL to amend and reenact §§ 24.2-701, 24.2-703, 24.2-706, and 24.2-707 of the Code of Virginia, relating to elections; absentee ballots and certain deadlines.

Patron—Ingram

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-701, 24.2-703, 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 State Board 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 State Board 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, 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.

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 general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless physically 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 made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. 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 forms of identification listed in that section, 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 who he claims to be. An applicant who requires assistance in voting by reason of physical disability or inability to read or write may request assistance pursuant to § 24.2-649 and be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding persons who are unable to sign shall be followed when assisting an applicant in completing this statement.

For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, such voter 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 document that shows the name and address of the voter. Such individual who desires to vote in person but who 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. Neither the identification requirements of subsection B of § 24.2-643, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The State Board 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.

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59 2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile
60 device if one is available to the office of the general registrar or the office of the State Board if a
61 device is not available locally, or other means. The application shall be on a form furnished by the
62 registrar or, if made under subdivision 2 of § 24.2-700, may be on a Federal Post Card Application
63 prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The Federal Post Card Application may be accepted
64 the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth
65 month prior to the election in which the applicant is applying to vote. The application shall be made to
66 the appropriate registrar ~~not less than five days~~ *no later than 5:00 p.m. on the seventh day* prior to the
67 election in which the applicant offers to vote.

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

69 1. The applicant's printed name and the reason the applicant will be absent or cannot vote at his
70 polling place on the day of the election;

71 2. A statement that he is registered in the county or city in which he offers to vote and his residence
72 address in such county or city. Any person temporarily residing outside the United States shall provide
73 the last date of residency at his Virginia residence address, if that residence is no longer available to
74 him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter
75 may file the applications to register and for a ballot simultaneously;

76 3. The complete address to which the ballot is to be sent directly to the applicant, unless the
77 application is made in person at a time when the printed ballots for the election are available and the
78 applicant chooses to vote in person at the time of completing his application. The address given shall be
79 either the address of the applicant on file in the registration records or the address at which he will be
80 located while absent from his county or city. No ballot shall be sent to, or in care of, any other person;
81 and

82 4. In the case of a person, or the spouse or dependent of a person, who is on active service as a
83 member of the armed forces of the United States or a member of the merchant marine of the United
84 States, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or
85 rate, and service identification number; or

86 5. In the case of a student, or the spouse of a student, who is attending a school or institution of
87 learning, the name and address of the school or institution of learning; or

88 6. In the case of a person who is unable to go in person to the polls on the day of the election
89 because of a physical disability or physical illness, the nature of the illness or disability; or

90 7. In the case of a person who is confined awaiting trial or for having been convicted of a
91 misdemeanor, the name and address of the institution of confinement; or

92 8. In the case of a person who will be absent on election day for business reasons, the name of his
93 employer or business; or

94 9. In the case of a person who will be absent on election day for personal business or vacation
95 reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

96 10. In the case of a person who is unable to go to the polls on the day of election because he is
97 primarily and personally responsible for the care of an ill or disabled family member who is confined at
98 home, the name of the family member and the nature of his illness or disability; or

99 11. In the case of a person who is unable to go to the polls on the day of election because of an
100 obligation occasioned by his religion, his religion and the nature of the obligation; or

101 12. In the case of a person who, in the regular and orderly course of his business, profession, or
102 occupation, will be at his place of work and commuting to and from his home to his place of work for
103 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his
104 business or employer, address of his place of work, and hours he will be at the workplace and
105 commuting on election day.

106 § 24.2-703. Application for absentee ballots for multiple elections for uniformed and overseas voters.

107 Any person who is eligible for an absentee ballot under subdivision 2 of § 24.2-700, or for
108 temporary registration under Articles 7 (§ 24.2-440 et seq.) or 7.1 (§ 24.2-443.1 et seq.) of Chapter 4 of
109 this title, may file a single application to receive ballots for all elections in which he is eligible to vote
110 absentee. The application shall be on a Federal Post Card Application. The application from any person
111 who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 ~~shall be valid for any election~~
112 ~~conducted five or more days after receipt of the application that is received~~ by the general registrar *no*
113 *later than 5:00 p.m. on the seventh day prior to the election shall be valid* through the next two
114 regularly scheduled general elections for federal office following its receipt. The application from any
115 person applying for temporary registration under Articles 7 or 7.1 of Chapter 4 of this title shall be
116 accepted at any time until the registration records are closed pursuant to § 24.2-416 and shall be valid
117 through the next two regularly scheduled general elections for federal office following the receipt of the
118 application by the general registrar.

119 The general registrar shall retain the application and process the applicant's request for an absentee
120 ballot for each election in accordance with procedures established by the State Board. The applicant

shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no ballots for subsequent elections shall be sent. No ballot shall be sent to the applicant, and no voted ballot received from the applicant shall be valid, (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

§ 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter.

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 of the listed applicants. The list and the applications shall be available for inspection and copying by any registered voter during regular office hours.

No list or application containing an individual's social security number shall be made available for inspection or copying by anyone. The State Board of Elections shall prescribe procedures for local electoral boards and general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers.

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 and notify the secretary of the electoral board. In reviewing the application for an absentee ballot, the general registrar and electoral board 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.

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 electoral board shall immediately send to the applicant by mail, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or 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, with printing only on the flap side, 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 section 101 (b) (7) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 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 document that shows the name and address of the

181 voter. Such individual who desires to vote by mail but who does not submit one of the forms of
182 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as
183 a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide
184 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
185 subsection B of § 24.2-653 and this section.

186 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee
187 Voting Act (42 U.S.C. § 1973ff et seq.), information provided by the State Board specific to the voting
188 rights and responsibilities for such citizens, or information provided by the registrar specific to the status
189 of the voter registration and absentee ballot application of such voter, may be included.

190 The envelopes and instructions shall be in the form prescribed by the State Board.

191 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed
192 ballots for the election are available, the general registrar or the secretary of the electoral board, on the
193 determination of the qualifications of the applicant to vote, shall provide to the applicant the items set
194 forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the
195 general registrar or the secretary of the electoral board. On the request of the applicant, made ~~at least~~
196 ~~five days no later than 5:00 p.m. on the seventh day~~ prior to the election in which the applicant offers
197 to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 to
198 the applicant by mail, obtaining a certificate of mailing.

199 If the applicant states as the reason for his absence on election day any of the reasons set forth in
200 subdivision 2 of § 24.2-700, the electoral board shall mail or deliver in person to the applicant in the
201 office of the secretary or general registrar, the items as set forth in subdivisions 1 through 4 and, if
202 necessary, an application for registration. A certificate of mailing shall not be required.

203 When the statement prescribed in subdivision 2 has been properly completed and signed by the
204 registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

205 § 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.

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

210 After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope
211 provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of
212 the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot
213 envelope and any required assistance form within the envelope directed to the electoral board, and (e)
214 seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral
215 board or the general registrar. For purposes of this chapter, "mail" shall include delivery by a
216 commercial delivery service, but shall not include delivery by a personal courier service or another
217 individual except as provided by §§ 24.2-703.2 and 24.2-705.

218 An applicant who makes his application to vote in person at a time when the printed ballots for the
219 election are available shall follow the same procedure set forth above except that he may complete the
220 procedure in person in the office of the general registrar or secretary of the electoral board, or at another
221 location or locations in the county or city approved by the electoral board, before a registrar or a
222 member of the electoral board, or, if a ballot is cast at that time, before the officers of election
223 appointed by the electoral board. Any such location shall be in a public building owned or leased by the
224 city, the county, or a town within the county, with adequate facilities for the protection of all records
225 concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment
226 in use at the location. Such location may be in a facility owned or leased by the Commonwealth and
227 used as a location for Department of Motor Vehicles facilities and for an office of the general registrar.
228 Such location shall be deemed the equivalent of the office of the general registrar or secretary of the
229 electoral board for the purpose of completing the application for an absentee ballot in person pursuant to
230 §§ 24.2-701 and 24.2-706. On the request of the applicant, made ~~at least five days no later than 5:00~~
231 ~~p.m. on the seventh day~~ prior to the election in which the applicant offers to vote, the general registrar
232 or the secretary may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant
233 by mail, obtaining a certificate of mailing.

234 Failure to follow the procedures set forth above shall render the applicant's ballot void.

235 The electoral board of any county or city using a central absentee voting precinct may provide for
236 the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in
237 person. The State Board shall prescribe procedures for the use of voting equipment. The procedures shall
238 provide for the casting of absentee ballots prior to election day by in-person applicants on voting
239 equipment which has been certified, and is currently approved, by the State Board. The procedures shall
240 be applicable and uniformly applied by the State Board to all jurisdictions using comparable voting
241 equipment. At least two officers of election, one representing each political party, shall be present during
242 all hours that absentee voting is available at any location at which absentee ballots are cast prior to

243 election day.

244 The requirement that officers of election shall be present if ballots are cast on voting equipment prior
245 to election day shall not be applicable when the voting equipment is located in the office of the general
246 registrar or secretary of the electoral board and the general registrar, an assistant registrar, or the
247 secretary of the electoral board is present.

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