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SENATE BILL NO. 1274

Offered January 10, 2007

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A BILL to amend and reenact §§ 24.2-700, 24.2-701, 24.2-703.1, and 24.2-703.2 of the Code of Virginia, relating to voters eligible to vote absentee.

Patron—Whipple

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-700, 24.2-701, 24.2-703.1, and 24.2-703.2 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-700. Persons entitled to vote by absentee ballot.

The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

2. Any person who is (i) a member of a uniformed service of the United States, as defined in 42 U.S.C. § 1973ff-6 (7), on active duty, or (ii) a member of the merchant marine of the United States, or (iii) who temporarily resides outside of the United States, or (iv) the spouse or dependent residing with any person listed in (i), (ii), or (iii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any person who is unable to go in person to the polls on the day of election because of a physical disability, ~~or~~ physical illness, *or other medical condition*;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ~~ill or disabled family member who is individual confined at home with a disability, illness, or other medical condition requiring continuous care~~;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion; or

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for eleven or more hours of the thirteen hours that the polls are open pursuant to § 24.2-603.

§ 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

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59 immediately preceding any primary election, May general election held in a town, or special election.

60 Unless physically disabled, all applications for absentee ballots shall be signed by the applicant who
61 shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the
62 best of his knowledge and belief the facts contained in the application are true and correct and that he
63 has not and will not vote in the election at any other place in Virginia or in any other state. If the
64 applicant is unable to sign the application, a person assisting the applicant will note this fact on the
65 applicant signature line and provide his signature, name, and address.

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

67 1. An application completed in person shall be made not less than three days prior to the election in
68 which the applicant offers to vote and completed only in the office of the general registrar. The
69 applicant shall sign the application in the presence of a registrar or a member of the electoral board. The
70 applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643, or if
71 he is unable to present one of the forms of identification listed in that section, he shall sign a statement,
72 subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is the named
73 registered voter who he claims to be. An applicant who requires assistance in voting by reason of
74 physical disability or inability to read or write may request assistance pursuant to § 24.2-649 and be
75 assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649
76 regarding persons who are unable to sign shall be followed when assisting an applicant in completing
77 this statement.

78 For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter
79 who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to
80 show identification the first time that voter votes in a federal election in the state. After completing an
81 application for an absentee ballot in person, such voter shall present: (i) a current and valid photo
82 identification; or (ii) a copy of a current utility bill, bank statement, government check, paycheck or
83 other document that shows the name and address of the voter. Such individual who desires to vote in
84 person but who does not show one of the forms of identification specified in this paragraph shall be
85 offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of
86 subsection B of § 24.2-643, nor the identification requirements of subsection A of § 24.2-653, shall
87 apply to such voter at that election. The State Board of Elections shall provide instructions to the
88 electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of
89 § 24.2-653 and this section.

90 2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile
91 device if one is available to the office of the general registrar or the office of the State Board if a
92 device is not available locally, or other means. The application shall be on a form furnished by the
93 registrar or, if made under subdivision 2 of § 24.2-700, may be on a Federal Post Card Application
94 prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The Federal Post Card Application may be accepted
95 the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth
96 month prior to the election in which the applicant is applying to vote. The application shall be made to
97 the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the
98 applicant offers to vote.

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

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

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

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

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

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

119 6. In the case of a person who is unable to go in person to the polls on the day of the election
120 because of a physical disability, ~~or~~ physical illness, *or other medical condition*, the nature of the illness,

~~or disability, or medical condition; or~~

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

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

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

10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of ~~an ill or disabled family member who is confined at home, the name of the family member and the nature of his illness or disability~~ *an individual with an illness, disability, or other medical condition requiring continuous care, the name of the individual cared for and his age or condition requiring continuous care*; or

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

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

§ 24.2-703.1. Special annual applications for absentee ballots for certain eligible voters.

Any person who is eligible for an absentee ballot under subdivision 4 *or* 7 of § 24.2-700 ~~because of a physical disability or physical illness~~ and who is likely to remain so ~~disabled or ill~~ *eligible* for the remainder of the calendar year shall be eligible to file a special annual application to receive ballots for all elections in which he is eligible to vote in a calendar year. His first such application shall be accompanied by a statement, on a form prescribed by the State Board and signed by the voter and his physician, *provider as defined in § 37.2-403* or accredited religious practitioner, that the voter is eligible for an absentee ballot under subdivision 4 *or* 7 of § 24.2-700 ~~because of a physical disability or physical illness~~ and likely to remain so ~~disabled or ill~~ *eligible* for the remainder of the calendar year.

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

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

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, or the general registrar knows that the applicant is no longer a qualified voter, no ballot for any subsequent election shall be sent to the voter until a new application is filed and accepted.

§ 24.2-703.2. Replacement absentee ballots for certain disabled or ill voters; penalty.

A voter seeking to cast an absentee ballot may obtain a replacement absentee ballot subject to the following conditions: (i) the voter applied for an absentee ballot under subdivision 4 *or* 7 of § 24.2-700 ~~because of a physical disability or physical illness~~; (ii) the application was approved and an absentee ballot mailed to the voter; and (iii) the voter did not receive or has lost the absentee ballot on or before the Saturday before the election. In such case, the voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day and designate, in writing, a representative to obtain a replacement absentee ballot on his behalf from the electoral board or general registrar and to return the properly completed ballot as directed by the electoral board or general registrar no later than the close of polls on the day of election for which the absentee ballot is valid. The representative shall be age eighteen or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate. The voter and representative shall complete the form prescribed by the State Board to implement the provisions of this section. The form shall include a statement signed by the voter that he did not receive the ballot or has lost the ballot. Statements on the form shall be subject to felony penalties for making false statements pursuant to § 24.2-1016.