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**SENATE BILL NO. 986**

Offered January 10, 2007

Prefiled January 9, 2007

*A BILL to amend and reenact §§ 24.2-700, 24.2-701, 24.2-703.1, 24.2-703.2, 24.2-704, 24.2-705, and 24.2-705.1 of the Code of Virginia, relating to voters eligible to vote absentee.*

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 Patron—Deeds
 

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 Referred to Committee on Privileges and Elections
 

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**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-700, 24.2-701, 24.2-703.1, 24.2-703.2, 24.2-704, 24.2-705, and 24.2-705.1 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;

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 confined at home;

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

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

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

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

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

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

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

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

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

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

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

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

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

120 7. In the case of a person who is confined awaiting trial or for having been convicted of a

121 misdemeanor, the name and address of the institution of confinement; or

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

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

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

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

131 12. In the case of a person who, in the regular and orderly course of his business, profession, or  
132 occupation, will be at his place of work and commuting to and from his home to his place of work for  
133 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his  
134 business or employer, address of his place of work, and hours he will be at the workplace and  
135 commuting on election day.

136 § 24.2-703.1. Special annual applications for absentee ballots for certain eligible voters.

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

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

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

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

155 § 24.2-703.2. Replacement absentee ballots for certain disabled or ill voters; penalty.

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

171 § 24.2-704. Applications and ballots for persons requiring assistance in voting; penalty.

172 The application for an absentee ballot shall provide space for the applicant to indicate that he will  
173 require assistance to vote his absentee ballot by reason of blindness, physical disability, or inability to  
174 read or write. On receipt of an application from an applicant marked to indicate he will require  
175 assistance, the electoral board shall deliver, with the items required by § 24.2-706, the voter assistance  
176 form furnished by the State Board pursuant to § 24.2-649. The voter and any person assisting him shall  
177 complete the form by signing the request for assistance and statement required of the assistant. If the  
178 voter is unable to sign the request, the witness will note this fact on the line for signature of voter. The  
179 provisions of § 24.2-649 shall apply to absentee voting and assistance for absentee voters. Any person  
180 who willfully violates the provisions of this section or § 24.2-649 in providing assistance to a person  
181 who is voting absentee shall be guilty of a Class 5 felony.

§ 24.2-705. Emergency applications and absentee ballots for persons incapacitated or hospitalized.

Any person registered and otherwise qualified to vote who becomes incapacitated on or after the seventh day preceding an election may request at any time prior to 2:00 p.m. on the day preceding the election that an emergency absentee ballot application be delivered to him. A voter who becomes hospitalized on or after the fourteenth day preceding the election and who is unable, because of his condition, to request an absentee ballot earlier than the seventh day preceding the election may request at any time prior to 2:00 p.m. on the day before an election that an emergency absentee ballot be delivered to him in the hospital. For purposes of this section, "incapacitated" means hospitalized, ill and confined to his residence, bereaved by the death of a spouse, child, or parent, or otherwise incapacitated by an emergency which is found by the electoral board to justify providing an emergency ballot application; and "hospital" means a hospital as defined in § 32.1-123 or § 37.2-100 and any comparable hospital in the District of Columbia or any state contiguous to Virginia.

On receipt of the request, the electoral board shall provide an emergency absentee ballot application to the incapacitated voter's designated representative who shall deliver the application to the voter. If the voter is hospitalized, the delivery shall be made to him at the hospital; and if the voter is otherwise incapacitated, the delivery shall be made to him at his current residence address as shown on the registration records. 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 application shall be on a form prescribed by the State Board and shall require the applicant (i) to state the cause of his incapacity, (ii) to state that he is unable to be present at the polls on election day, and that he was either incapacitated on or after the seventh day preceding the election or hospitalized on or after the fourteenth day preceding the election and unable to request the application earlier than the seventh day preceding the election, (iii) to designate a representative to receive, deliver and return the ballot, and (iv) to provide other information required by law for an absentee ballot application.

If the voter is hospitalized, a hospital administrative official or a licensed physician or provider as defined in § 37.2-403 attending the applicant shall certify on the form to the hospitalization of the applicant and the applicant's inability to be present at the polls on election day. If the voter is ill and confined to his residence, a licensed physician, provider as defined in § 37.2-403, or an accredited religious practitioner attending the applicant shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is bereaved, a licensed physician, an accredited religious practitioner or a funeral service licensee (as defined in § 54.1-2800) shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is otherwise incapacitated as determined by the electoral board, the secretary of the electoral board shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. The applicant shall sign the application and 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. His signature shall be witnessed by the designated representative who shall sign and return the completed application to the office of the general registrar no later than 5:00 p.m. on the day preceding the election. For the purposes of this section, "accredited religious practitioner" means a person who has been trained in spiritual healing or the other healing arts and has been so accredited by a formal religious order.

On receipt of the completed application and a determination of the qualification of the applicant to vote, the general registrar or secretary of the electoral board shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the incapacitated voter.

The incapacitated voter shall vote the absentee ballot as provided by law and mark it in the presence of the designated representative. The representative shall complete a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) he is the representative of the incapacitated voter; (ii) he personally delivered the ballot to the voter who applied for it; (iii) in his presence, the voter marked the ballot, the ballot was placed in the envelope provided, the envelope was sealed, and the statement on its reverse side was signed by the incapacitated voter; and (iv) the ballot was returned, under seal, to the electoral board at the registrar's office.

The ballot shall be counted only if the ballot is received by the electoral board prior to the close of polls, and the electoral board shall deliver the ballot to the officers of election at each appropriate precinct pursuant to § 24.2-710.

§ 24.2-705.1. Late applications and in-person absentee voting for business and medical emergencies.

Any person registered and otherwise qualified to vote who becomes obligated after 12:00 noon on the Saturday before an election to be absent from his county or city on election day for a purpose pertaining to (i) his business, profession, or occupation, (ii) the hospitalization of the applicant or a member of his immediate family, or (iii) the death of a member of his immediate family, may apply for an absentee ballot and vote absentee in person pursuant to this section and subject to the following conditions:

244 1. The applicant applies in person for an absentee ballot on the Monday immediately preceding the  
 245 election, before 2:00 p.m., at the principal office of the registrar; and  
 246 2. The applicant signs a statement, which shall be deemed part of his absentee ballot application and  
 247 subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is required to  
 248 leave the county or city before the opening of the polls on election day for a purpose pertaining to (i)  
 249 his business, profession or occupation, (ii) the hospitalization of the applicant or a member of his  
 250 immediate family, or (iii) the death of a member of his immediate family, and that he did not have  
 251 notice or knowledge of such required travel prior to 12:00 noon on the immediately preceding Saturday.  
 252 "Immediate family" means the children, grandchildren, grandparents, parents, siblings and spouse of the  
 253 applicant. *"Hospitalization" refers to confinement in a hospital as defined in § 32.1-123 or § 37.2-100*  
 254 *and any comparable hospital in the District of Columbia or any state contiguous to Virginia.*