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HOUSE BILL NO. 1099

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Privileges and Elections
on February 1, 2008)

(Patron Prior to Substitute—Delegate Sickles)

A BILL to amend and reenact §§ 24.2-404, 24.2-444, and 24.2-706 of the Code of Virginia, relating to voter registration records; public inspection of records; duties of State Board of Elections, registrars, and electoral boards.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-404, 24.2-444, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-404. Duties of State Board.

A. The State Board shall provide for the continuing operation and maintenance of a central record-keeping system, the Virginia Voter Registration System, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Board shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.
2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.

3. Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1, or (vi) is otherwise no longer qualified to vote as may be provided by law.

5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.

6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

7. Provide to each general registrar, at least 10 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The State Board shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the State Board shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the State Board shall provide a regional or statewide list of registered voters to the general registrar of the locality. The State Board shall determine whether regional or statewide data is provided. *Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.*

8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Board.

9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system.

10. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The State Board shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia Voter Registration System by any appropriate means including, but not limited to, paper and electronic means.

C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is

60 cancelled.

61 § 24.2-444. Duties of general registrars and State Board of Elections as to voter registration records;
62 public inspection; exceptions.

63 A. Registration records shall be kept and preserved by the general registrar in compliance with
64 §§ 2.2-3803, 2.2-3808, and 24.2-114. The State Board shall provide to each general registrar, for each
65 precinct in his county or city, lists of registered voters for inspection and lists of persons registering
66 pursuant to §§ 24.2-442 and 24.2-443.3. The lists shall contain the name, address, ~~date~~ year of birth,
67 gender and all election districts applicable to each registered voter. The lists shall be opened to public
68 inspection at the office of the general registrar when the office is open for business. New lists shall be
69 provided not less than once each year to all localities except those in which an updated list is made
70 available electronically for public inspection, and supplements containing additions, deletions, and
71 changes shall be provided not less than (i) weekly during the 60 days preceding any general election and
72 (ii) monthly at other times. Notwithstanding any other provision of law regarding the retention of
73 records, upon receipt of any new complete list, the general registrar shall destroy the obsolete list and its
74 supplements. The State Board shall provide to each general registrar lists of persons denied registration
75 for public inspection. Such lists may be provided electronically through the Virginia voter registration
76 system and produced in whole or in part upon a request for public inspection.

77 B. The general registrars shall maintain for at least two years and shall make available for public
78 inspection and copying and, where available, photocopying at a reasonable cost, all records concerning
79 the implementation of programs and activities conducted for the purpose of ensuring the accuracy and
80 currency of the registration records pursuant to §§ 24.2-427, 24.2-428 and 24.2-428.1, including lists of
81 the names and addresses of all persons to whom notices are sent, and information concerning whether
82 each person has responded to the notice as of the date that inspection of the records is made.

83 C. No list provided by the State Board under subsection A nor any record made available for public
84 inspection under subsection B shall contain any of the following information: (i) an individual's social
85 security number, or any part thereof; (ii) the residence address of an individual who has furnished a post
86 office box address in lieu of his residence address as authorized by § 24.2-418; (iii) the declination by
87 an individual to register to vote and related records; ~~or~~ (iv) the identity of a voter registration agency
88 through which a particular voter is registered; *or (v) the day and month of birth of an individual.* No
89 voter registration records other than the lists provided by the State Board under subsection A and the
90 records made available under subsection B shall be open to public inspection.

91 § 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter.

92 On receipt of an application for an absentee ballot, the general registrar shall enroll the name and
93 address of each registered applicant on an absentee voter applicant list that shall be maintained in the
94 office of the general registrar with a file of the applications of the listed applicants. The list and the
95 applications shall be available for inspection and copying by any registered voter during regular office
96 hours.

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

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

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

109 If the application has been properly completed and signed and the applicant is a registered voter of
110 the precinct in which he offers to vote, the electoral board shall immediately send to the applicant by
111 mail, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or
112 registrar, the following items and nothing else:

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

115 2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which
116 envelope is printed the following:

117 "Statement of Voter."

118 "I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016,
119 that my FULL NAME is (last, first, middle); that I am now or have been at some time since
120 last November's general election a legal resident of (STATE YOUR LEGAL RESIDENCE
121 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 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 a provisional ballot under the provisions of § 24.2-653. 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.

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

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

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

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

When the statement prescribed in subdivision 2 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.