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HOUSE BILL NO. 65

Offered January 9, 2008

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A BILL to amend and reenact §§ 24.2-643, 24.2-701, and 24.2-706 of the Code of Virginia, relating to in-person and absentee voting procedures and identification requirements.

 Patron—Marshall, R.G.

 Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-643, 24.2-701, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present ~~any one of the following forms of identification:~~ his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, ~~or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business proof of identification.~~ "Proof of identification" means a document that satisfies all the following:

(i) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.

(ii) The document shows a photograph of the individual to whom the document was issued.

(iii) The document includes an expiration date, and the document:

(a) is not expired; or

(b) expired after the date of the most recent general election.

(iv) The document was issued by the United States or the Commonwealth of Virginia.

If the voter's name is found on the pollbook, if he presents ~~one of the forms~~ proof of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

~~Except as provided in subsection E of this section,~~ if a voter is entitled to vote except that he is unable to present ~~one of the forms~~ proof of identification listed above, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to ~~§ 24.2-1016~~, that he is the named registered voter who he claims to be offered a provisional ballot under the provisions of § 24.2-653.

A voter who requires assistance in voting by reason of physical disability or 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.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.) of this title.

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59 D. At the time the voter is asked his full name and current residence address, the officer of election
60 shall ask any voter for whom the pollbook indicates that an identification number other than a social
61 security number is recorded on the Virginia voter registration system if he presently has a social security
62 number. If the voter is able to provide his social security number, he shall be furnished with a voter
63 registration form prescribed by the State Board to update his registration information. Upon its
64 completion, the form shall be placed by the officer of election in an envelope provided for such forms
65 for transmission to the general registrar. Any social security numbers so provided shall be entered by the
66 general registrar in the voter's record on the voter registration system.

67 E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any
68 voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of
69 2002 to show identification the first time the voter votes in a federal election in the state. At such
70 election, such voter shall present: (i) a current and valid photo identification; or (ii) a copy of a current
71 utility bill, bank statement, government check, paycheck or other document that shows the name and
72 address of the voter. Such individual who desires to vote in person but who does not show one of the
73 forms of identification specified in this paragraph shall be offered a provisional ballot under the
74 provisions of § 24.2-653. Neither the identification requirements of subsection B of this section, nor the
75 identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The
76 State Board of Elections shall provide instructions to the electoral boards for the handling and counting
77 of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

78 § 24.2-701. Application for absentee ballot.

79 A. The State Board shall furnish each general registrar with a sufficient number of applications for
80 official absentee ballots. The registrars shall furnish applications to persons requesting them.

81 The State Board shall implement a system that enables eligible persons to request and receive an
82 absentee ballot application electronically through the Internet. Electronic absentee ballot applications
83 shall be in a form approved by the State Board.

84 Except as provided in § 24.2-703, a separate application shall be completed for each election in
85 which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i)
86 12 months before an election, or (ii) the day following any election held in the twelfth month prior to
87 the election in which the applicant is applying to vote.

88 Any application received before the ballots are printed shall be held and processed as soon as the
89 printed ballots for the election are available.

90 For the purposes of this chapter, the general registrar's office shall be open a minimum of eight
91 hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately
92 preceding all general elections, except May general elections held in towns, and on the Saturday
93 immediately preceding any primary election, May general election held in a town, or special election.

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

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

101 1. An application completed in person shall be made not less than three days prior to the election in
102 which the applicant offers to vote and completed only in the office of the general registrar. The
103 applicant shall sign the application in the presence of a registrar or a member of the electoral board. The
104 applicant shall provide ~~one of the forms~~ *proof* of identification *as specified* in subsection B of
105 § 24.2-643, or if he is unable to present ~~one of the forms~~ *proof* of identification *listed as specified* in
106 that section, he shall ~~sign a statement, subject to felony penalties for making false statements pursuant to~~
107 ~~§ 24.2-1016, that he is the named registered voter who he claims to be offered a provisional ballot~~
108 *under the provisions of § 24.2-653.* An applicant who requires assistance in voting by reason of physical
109 disability or inability to read or write may request assistance pursuant to § 24.2-649 and be assisted in
110 preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding
111 persons who are unable to sign shall be followed when assisting an applicant in completing this
112 statement.

113 For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter
114 who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to
115 show identification the first time that voter votes in a federal election in the state. After completing an
116 application for an absentee ballot in person, such voter shall present: (i) a current and valid photo
117 identification; or (ii) a copy of a current utility bill, bank statement, government check, paycheck or
118 other document that shows the name and address of the voter. Such individual who desires to vote in
119 person but who does not show one of the forms of identification specified in this paragraph shall be
120 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.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The Federal Post Card Application 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. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

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

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election;

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

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

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

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

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

§ 24.2-706. 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, or any part thereof, 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 or parts thereof.

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

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

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

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

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

197 "Statement of Voter."

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

207 Signature of Voter

208 Date

209 Signature of witness"

210 For elections held after January 1, 2004, instead of the envelope containing the above oath, an
211 envelope containing the standard oath prescribed by the presidential designee under section 101 (b) (7)
212 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) shall be sent
213 to voters who are qualified to vote absentee under that Act.

214 3. A properly addressed envelope for the return of the ballot *and a copy of proof of identification, as*
215 *specified in subsection B of § 24.2-643*, to the electoral board by mail or by the applicant in person.

216 4. Printed instructions for completing the ballot and statement on the envelope and returning the
217 ballot *and a copy of proof of identification. Such individual who desires to vote by mail but who does*
218 *not submit proof of identification may cast such ballot by mail and the ballot shall be counted as a*
219 *provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide*
220 *instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to*
221 *subsection B of § 24.2-653 and this section.*

222 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of
223 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the
224 voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with
225 his ballot: (i) a copy of a current and valid photo identification; or (ii) a copy of a current utility bill,
226 bank statement, government check, paycheck or other document that shows the name and address of the
227 voter. Such individual who desires to vote by mail but who does not submit one of the forms of
228 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as
229 a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide
230 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
231 subsection B of § 24.2-653 and this section.

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

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

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

243 registrar or the secretary may send the items set forth in subdivisions 1 through 4 to the applicant by
244 mail, obtaining a certificate of mailing.

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

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

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