

12100190D

SENATE BILL NO. 1

Offered January 11, 2012

Prefiled December 1, 2011

A BILL to amend and reenact §§ 24.2-643, 24.2-651.1, 24.2-653, and 24.2-701 of the Code of Virginia, relating to elections; voting procedures; voter identification requirements.

Patrons—Martin, Obenshain, Black and Ruff

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-643, 24.2-651.1, 24.2-653, and 24.2-701 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. Any voter who does not show one of the forms of identification specified in this subsection shall be offered 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.

If the voter's name is found on the pollbook, if he presents one of the forms 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 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. 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.

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms

INTRODUCED

SBI

59 for transmission to the general registrar. Any social security numbers so provided shall be entered by the  
60 general registrar in the voter's record on the voter registration system.

61 E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any  
62 voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of  
63 2002 to show identification the first time the voter votes in a federal election in the state. At such  
64 election, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current  
65 utility bill, bank statement, government check, paycheck or other government document that shows the  
66 name and address of the voter. Such individual who desires to vote in person but who does not show  
67 one of the forms of identification specified in this ~~paragraph~~ subsection shall be offered a provisional  
68 ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B of this  
69 section, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at  
70 that election. The State Board of Elections shall provide instructions to the electoral boards for the  
71 handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this  
72 section.

73 § 24.2-651.1. Voter who is shown as having already voted; challenge and procedure for voting; voter  
74 identification.

75 The officers of election shall challenge the vote of any person who offers to vote, who is listed on  
76 the pollbook, and whose name is marked to indicate that he has already voted in person in the election.

77 When the person is challenged, an officer shall explain to him the basis for the challenge. If the  
78 person being challenged states that he has not voted and is qualified, an officer shall ask the voter to  
79 present one of the following forms of identification: ~~his Commonwealth of Virginia voter registration~~  
80 ~~card~~, his social security card, his valid Virginia driver's license, or any other identification card issued  
81 by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or  
82 any valid employee identification card containing a photograph of the voter and issued by an employer  
83 of the voter in the ordinary course of the employer's business. *Any voter who does not show one of the*  
84 *forms of identification specified in this section shall be offered a provisional ballot under the provisions*  
85 *of § 24.2-653. The State Board of Elections shall provide instructions to the electoral boards for the*  
86 *handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this*  
87 *section.*

88 If the person presents the requested form of identification showing him to be the person listed on the  
89 pollbook, an officer of election shall give him the form set out in § 24.2-651 for the person to sign  
90 subject to felony penalties for making false statements pursuant to § 24.2-1016.

91 If the person challenged refuses to sign the statement, he shall not be permitted to vote. If, however,  
92 he signs the statement, he shall be permitted to vote on the voting system in use at the precinct.

93 When the voter has shown the requested identification, has signed the statement, and is permitted to  
94 vote, the officers of election shall mark his name on the pollbook with the first or next consecutive  
95 number from the voter count form, or shall enter that the voter has voted if the pollbook is in electronic  
96 form, and shall indicate on the pollbook that the person has signed the required statement in accordance  
97 with the instructions of the State Board of Elections.

98 § 24.2-653. Voter whose name does not appear on pollbook; handling of provisional ballots; ballots  
99 cast after normal close of polls due to court order extending polling hours.

100 A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or  
101 cannot state that the person is registered to vote, then such person shall be allowed to vote by paper  
102 ballot in the manner provided in this section.

103 Such person shall be given a paper ballot and provide, subject to the penalties for making false  
104 statements pursuant to § 24.2-1016, on a green envelope supplied by the State Board, the identifying  
105 information required in § 24.2-652. Such person shall be asked to present one of the forms of  
106 identification specified in subsection B of § 24.2-643. ~~If he is unable to present one of these forms of~~  
107 ~~identification, he shall sign a statement, subject to felony penalties for false statements pursuant to~~  
108 ~~§ 24.2-1016, that he is the named registered voter who he claims to be, and the~~ *The officers of election*  
109 *shall note on the green envelope that the required statement was signed in lieu of presenting whether or*  
110 *not the voter has presented one of the specified forms of identification. The officers of election shall*  
111 *enter the appropriate information for the person in the precinct provisional ballots log in accordance*  
112 *with the instructions of the State Board but shall not enter a consecutive number for the voter on the*  
113 *pollbook nor otherwise mark his name as having voted. The officers of election shall provide an*  
114 *application for registration to the person offering to vote in the manner provided in this section.*

115 The voter shall then, in the presence of an officer of election, but in a secret manner, mark the ballot  
116 as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall  
117 then be placed in the ballot container by an officer of election.

118 An officer of election, by a written notice given to the voter, shall (i) inform him that a  
119 determination of his right to vote shall be made by the electoral board on the following day and, (ii)  
120 advise the voter of the beginning time and place for the board's meeting and of the voter's right to be

121 present at that meeting, *and (iii) inform him that he may submit a copy of one of the forms of*  
 122 *identification specified in subsection B of § 24.2-643 to the electoral board by facsimile.* At the meeting,  
 123 the voter may request an extension of the determination of the provisional vote to the following day in  
 124 order to provide information to prove that the voter is entitled to vote in the precinct pursuant to  
 125 § 24.2-401. The electoral board shall have the authority to grant such extensions which it deems  
 126 reasonable to determine the status of a provisional vote.

127 B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be  
 128 sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes  
 129 contained therein, and signed by the officers of election who counted them. All provisional votes  
 130 envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such  
 131 envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the  
 132 electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

133 The electoral board shall meet on the day following the election and determine whether each person  
 134 having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in  
 135 which he offered the provisional vote. If the board is unable to determine the validity of all the  
 136 provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot  
 137 an extension to the following day as provided in subsection A, the meeting shall stand adjourned from  
 138 day to day, not to exceed seven calendar days from the date of the election, until the board has  
 139 determined the validity of all provisional ballots offered in the election.

140 One authorized representative of each political party or independent candidate in a general or special  
 141 election or one authorized representative of each candidate in a primary election shall be permitted to  
 142 remain in the room in which the determination is being made so long as he does not impede the orderly  
 143 conduct of the determination. Each authorized representative shall be a qualified voter of any jurisdiction  
 144 of the Commonwealth. Each representative, who is not himself a candidate or party chairman, shall  
 145 present to the electoral board a written statement designating him to be a representative of the party or  
 146 candidate and signed by the county or city chairman of his political party, the independent candidate, or  
 147 the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original  
 148 signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.

149 If the electoral board determines that such person was not entitled to vote as a qualified voter in the  
 150 precinct in which he offered the provisional vote, ~~or~~ is unable to determine his right to vote, *or has not*  
 151 *been provided one of the forms of identification specified in subsection B of § 24.2-643,* the envelope  
 152 containing his ballot shall not be opened and his vote shall not be counted. The provisional vote shall be  
 153 counted if either (i) such person is entitled to vote in the precinct pursuant to § 24.2-401 or (ii) the State  
 154 Board or the voter presents proof that indicates the voter submitted an application for registration to the  
 155 Department of Motor Vehicles or other state-designated voter registration agency prior to the close of  
 156 registration pursuant to § 24.2-416 and the registrar determines that the person was qualified for  
 157 registration based upon the application for registration submitted by the person pursuant to subsection A.  
 158 The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly  
 159 registered.

160 If the electoral board determines that such person was entitled to vote, the name of the voter shall be  
 161 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and  
 162 the ballot placed in a ballot container without any inspection further than that provided for in  
 163 § 24.2-646. *In determining that such person was entitled to vote, the electoral board may rely on a copy*  
 164 *of one of the forms of identification specified in subsection B of § 24.2-643 provided to the board by*  
 165 *facsimile.*

166 On completion of its determination, the electoral board shall proceed to count such ballots and certify  
 167 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No  
 168 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.

169 The certification of the results of the count together with all ballots and envelopes, whether open or  
 170 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit  
 171 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

172 C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any  
 173 ballots marked after the normal polling hours by persons who were not already in line at the time the  
 174 polls would have closed, notwithstanding the court order, shall be treated as provisional ballots under  
 175 this section. The officers of election shall mark the green envelope for each such provisional ballot to  
 176 indicate that it was cast after normal polling hours due to the court order, and when preparing the  
 177 materials to deliver to the registrar or electoral board, shall separate these provisional ballots from any  
 178 provisional ballots used for any other reason. The electoral board shall treat these provisional ballots as  
 179 provided in subsection B ~~of this section~~; however, the counted and uncounted provisional ballots marked  
 180 after the normal polling hours shall be kept separate from all other ballots and recorded in a separate  
 181 provisional ballots pollbook. The State Board of Elections shall provide instructions to the electoral

182 boards for the handling and counting of such provisional ballots pursuant to this section.

183 § 24.2-701. Application for absentee ballot.

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

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

189 Except as provided in § 24.2-703, a separate application shall be completed for each election in  
190 which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i)  
191 12 months before an election; or (ii) the day following any election held in the twelfth month prior to  
192 the election in which the applicant is applying to vote.

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

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

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

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

206 1. An application completed in person shall be made not less than three days prior to the election in  
207 which the applicant offers to vote and completed only in the office of the general registrar. The  
208 applicant shall sign the application in the presence of a registrar or a member of the electoral board. The  
209 applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643, ~~or if~~  
210 ~~he is unable to present one of the forms of identification listed in that section, he shall sign a statement,~~  
211 ~~subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is the named~~  
212 ~~registered voter who he claims to be. An applicant who requires assistance in voting by reason of~~  
213 ~~disability or inability to read or write may request assistance pursuant to § 24.2-649 and be assisted in~~  
214 ~~preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding~~  
215 ~~persons who are unable to sign shall be followed when assisting an applicant in completing this~~  
216 ~~statement. Any applicant who does not show one of the forms of identification specified in subsection B~~  
217 ~~of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board~~  
218 ~~of Elections shall provide instructions to the electoral boards for the handling and counting of such~~  
219 ~~provisional ballots pursuant to subsection B of § 24.2-653 and this section.~~

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

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

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

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

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

249 3. The complete address to which the ballot is to be sent directly to the applicant, unless the  
 250 application is made in person at a time when the printed ballots for the election are available and the  
 251 applicant chooses to vote in person at the time of completing his application. The address given shall be  
 252 (i) the address of the applicant on file in the registration records; (ii) the address at which he will be  
 253 located while absent from his county or city; or (iii) the address at which he will be located while  
 254 temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other  
 255 person; and

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

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

262 6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable  
 263 to go in person to the polls on the day of the election because of his disability, illness, or pregnancy,  
 264 the nature of the disability, illness, or pregnancy; or

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

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

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

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

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

276 12. In the case of a person who, in the regular and orderly course of his business, profession, or  
 277 occupation, will be at his place of work and commuting to and from his home to his place of work for  
 278 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his  
 279 business or employer, address of his place of work, and hours he will be at the workplace and  
 280 commuting on election day; or

281 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in  
 282 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in  
 283 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first  
 284 responder; or

285 14. In the case of a person who has been designated by a political party, independent candidate, or  
 286 candidate in a primary election to be a representative of the party or candidate inside a polling place on  
 287 the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so  
 288 designated and the name of the party chairman or candidate who designated him.