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## SENATE BILL NO. 188

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Privileges and Elections  
on January 31, 2012)

(Patron Prior to Substitute—Senator Miller, J.C.)

*A BILL to amend and reenact §§ 24.2-701 and 24.2-706 of the Code of Virginia, relating to elections; absentee ballot applications and ballots.*

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

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

§ 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~~ and to submit a completed absentee ballot application by electronic mail or such other electronic means as may be permitted by the State Board. Electronic absentee ballot applications shall be in a form approved by the State Board and shall be signed by the voter in a manner consistent with the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). The system shall be used for all applications for absentee ballots permitted under this chapter except those cases where a voter is required to appear in person to apply for an absentee ballot or vote absentee.

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.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall 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 and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

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

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

For federal elections held after January 1, 2004, this paragraph shall apply in the case of 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 that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this paragraph shall be 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

60 subsection B of § 24.2-653 and this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

105 12. In the case of a person who, in the regular and orderly course of his business, profession, or  
106 occupation, will be at his place of work and commuting to and from his home to his place of work for  
107 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his  
108 business or employer, address of his place of work, and hours he will be at the workplace and  
109 commuting on election day; or

110 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in  
111 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in  
112 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first  
113 responder; or

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

118 § 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter.

119 On receipt of an application for an absentee ballot, the general registrar shall enroll the name and  
120 address of each registered applicant on an absentee voter applicant list that shall be maintained in the  
121 office of the general registrar with a file of the applications of the listed applicants. The list shall be

available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the State Board of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, 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, or an individual's day and month of birth.

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

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

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the electoral board shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or registrar, the following items and nothing else:

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

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

"Statement of Voter."

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

183 rights and responsibilities for such citizens, or information provided by the registrar specific to the status  
184 of the voter registration and absentee ballot application of such voter, may be included.

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

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

194 If the applicant states as the reason for his absence on election day any of the reasons set forth in  
195 subdivision 2 of § 24.2-700, the electoral board, at the time when the printed ballots for the election are  
196 available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the  
197 office of the secretary or general registrar the items as set forth in subdivisions 1 through 4 and, if  
198 necessary, an application for registration. A certificate of mailing shall not be required. The electoral  
199 board, at the time when the printed ballots for the election are available, shall send by the deadline set  
200 forth in § 24.2-612 the blank ballot, the form for the envelope for returning the marked ballot, and  
201 instructions to the voter by electronic transmission if the voter so requests. The voted ballot shall be  
202 returned to the electoral board as otherwise required by this chapter. *If any other applicant requests*  
203 *receipt by electronic transmission and the printed ballots for the election are available, the electoral*  
204 *board shall deliver the items as set forth in subdivisions 1 through 4, the blank ballot, the form for the*  
205 *envelope for returning the marked ballot, and instructions to the voter by electronic transmission. The*  
206 *voted ballot shall be returned to the electoral board as otherwise required by this chapter.*

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

209 The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this  
210 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole  
211 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur,  
212 or (iii) the campaign committee or the appropriate district political party chairman of such candidate.  
213 Any person who fails to discharge his duty as provided in this section through willful neglect of duty  
214 and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of  
215 § 24.2-1001.