

15101185D

HOUSE BILL NO. 1497

Offered January 14, 2015

Prefiled January 5, 2015

A BILL to amend and reenact §§ 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 24.2-702.2 and 24.2-703.3, and to repeal §§ 24.2-702 through 24.2-703.2 of the Code of Virginia, relating to absentee voting.

Patron—Sullivan

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-706, 24.2-709, and 24.2-1004 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-702.2 and 24.2-703.3 as follows:

§ 24.2-452. Definitions.

As used in this chapter, unless the context requires a different meaning:

1. "Covered voter" means:

- a. A uniformed-service voter or an overseas voter who is registered to vote in this state;
- b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, ~~including subdivision 2 of § 24.2-700;~~
- c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
- d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
- e. An overseas voter who was born outside the United States, is not described in subdivision c or d, and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:

(1) The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this state; and

(2) The voter has not previously registered to vote in any other state.

2. "Dependent" means an individual recognized as a dependent by a uniformed service.

3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301(b)(2).

4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20303, that may be used in all elections in which the voter is eligible to vote as provided in ~~§ 24.2-702.1~~ § 24.2-702.2.

5. "Military-overseas ballot" means:

- a. A federal write-in absentee ballot;
- b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title, ~~including an early ballot authorized in § 24.2-702;~~ or
- c. A ballot cast by a covered voter in accordance with this title.

6. "Overseas voter" means a United States citizen who is outside the United States.

7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

8. "Uniformed service" means:

- a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;
- b. The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
- c. The Virginia National Guard.

9. "Uniformed-service voter" means an individual who is qualified to vote and is:

- a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;
- b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;
- c. A member on activated status of the National Guard; or

INTRODUCED

HB1497

d. A spouse or dependent of a member referred to in this definition.

10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

§ 24.2-612. List of offices and candidates filed with State Board and checked for accuracy; when ballots printed; number required.

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each electoral board shall forward to the State Board a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each electoral board shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the electoral board shall also provide a copy of the notice to each disqualified candidate. The notice shall be sent by email or regular mail to the address on the candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The State Board shall promptly advise the electoral board of the accuracy of the list. The failure of any electoral board to send the list to the State Board for verification shall not invalidate any election.

Each electoral board shall have printed the number of ballots it determines will be sufficient to conduct the election.

Notwithstanding any other provisions of this title, the State Board may print or otherwise provide (i) one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402 or clause (iii) or (v) of subsection B of § 24.2-416.1 or (ii) one statewide paper ballot style for each paper ballot style in use for Governor, Lieutenant Governor or Attorney General only for use as the early absentee ballot specified in § 24.2-702. The State Board may apportion or authorize the printer or vendor to apportion the costs for these ballots among the localities based on the number of ballots ordered. Any printer employed by the State Board shall execute the statement required by § 24.2-616. The State Board shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate electoral boards pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board shall affix its seal. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the State Board shall specifically direct.

The electoral board shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the electoral board shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 covered voter as defined in § 24.2-452 who has applied to vote absentee pursuant to § 24.2-701 or 24.2-702.2. Not later than five days after absentee ballots are made available, each electoral board shall report to the State Board, in writing on a form approved by the State Board, whether it has complied with the applicable deadline.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The electoral boards shall send to the State Board a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the State Board finds that, in its opinion, the number of ballots ordered to be printed by any local electoral board is not sufficient, it may direct the local board to order the printing of a reasonable number of additional ballots.

§ 24.2-700. Persons entitled to vote by absentee ballot.

~~The following registered voters~~ Any registered voter may vote by absentee ballot in accordance with the provisions of this chapter in any election in which ~~they are~~ he is 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, as defined in § 24.2-452, on active duty, (ii) temporarily residing outside of the United States, or (iii) the spouse or dependent residing with any person listed in clause (i) or (ii); 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 duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;

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;

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 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603;

10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1; or

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639.

§ 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 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 24.2-702.2, 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.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision 2 of § 24.2-700 *a covered voter as defined in § 24.2-452*.

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, and on the Saturday immediately preceding any primary election, May general election, 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. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 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.

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 *by a covered voter as defined in § 24.2-452*, may be on a federal postcard application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal

postcard 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; *and* 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 a covered voter as defined in § 24.2-452~~ but not a registered voter may file the applications to register and for a ballot simultaneously; *and*

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 (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. 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 duty as a member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the spouse belongs; 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 of the school or institution of learning; or~~

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

7. ~~In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name 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, his relationship to the family member; 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, 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 and hours he will be at the workplace and commuting on election day; or~~

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

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

§ 24.2-702.2. Uniformed and overseas voters.

A. Any qualified voter who is a covered voter as defined in § 24.2-452 may use a federal write-in absentee ballot in any election. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) and this chapter.

Notwithstanding any other provision of this title, a federal write-in absentee ballot so submitted shall be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a completed absentee ballot, provided that the ballot is received no later than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the voter offers to vote, and the application contains the following information: (i) the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's printed name; (iii) the county or city in which he is registered and offers to vote; (iv) the residence

address at which he is registered to vote; (v) his current military or overseas address; and (vi) the signature of a witness who shall sign the same application.

This subsection shall not be construed to require that an absentee ballot be sent to the absentee voter on receipt of a federal write-in absentee ballot unless the voter has also submitted an absentee ballot application pursuant to § 24.2-701 or subsection B of this section.

B. Any qualified voter who is a covered voter as defined in § 24.2-452 may file a single application to receive ballots for all elections in which he is eligible to vote absentee. The application shall be on a federal postcard application. An application from any person who is already registered or who is eligible for late registration under § 24.2-419 that is received by the general registrar no later than 5:00 p.m. on the seventh day prior to the election shall be considered a standing request for absentee ballots through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies. In the event that a second or subsequent federal postcard application is received from a voter, any previous applications shall be superseded and the duration of the most recently received application shall apply.

The general registrar shall retain the application and process the applicant's request for an absentee ballot for each election in accordance with procedures established by the State Board. The applicant shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots shall be sent. No ballot shall be sent to the applicant and no voted ballot received from the applicant shall be valid (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

§ 24.2-703.3. Persons with a disability.

A. Any qualified voter who is a person with a disability as defined in § 24.2-101 and, because of his disability or illness, is unable to go in person to the polls on the day of the election and is likely to remain unable to go in person to the polls because of his disability or illness for the remainder of the calendar year, shall be eligible to file a special annual application to receive ballots for all elections in which he is qualified to vote in a calendar year.

1. His first such application shall be accompanied by a statement, on a form prescribed by the State Board and signed by the voter and his physician, provider as defined in § 37.2-403, or accredited religious practitioner, that the voter is a person with a disability as defined in § 24.2-101 and, because of his disability or illness, is unable to go in person to the polls on the day of the election and is likely to remain unable to go in person to the polls because of his disability or illness for the remainder of the calendar year.

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

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

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

B. Any qualified voter who is a person with a disability as defined in § 24.2-101 and applies for an absentee ballot, but does not receive or loses the absentee ballot that is mailed to him, may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day. He shall designate, in writing, a representative to obtain a replacement absentee ballot on his behalf from the electoral board or general registrar and to return the properly completed ballot as directed by the electoral board or general registrar no later than the close of polls on the day of election for which the absentee ballot is valid. The representative shall be age 18 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 voter and representative shall complete the form prescribed by the State Board to implement the provisions of this section. The form shall include a statement signed by the voter that he did not receive the ballot or has lost the ballot. Statements on the form shall be subject to felony penalties for making false statements pursuant to § 24.2-1016.

§ 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 shall be

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

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

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

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

324 If the application has been properly completed and signed and the applicant is a registered voter of
325 the precinct in which he offers to vote, the electoral board shall, at the time when the printed ballots for
326 the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate of either
327 first-class or expedited mailing or delivery from the United States Postal Service or other commercial
328 delivery provider, or deliver to him in person in the office of the secretary or registrar, the following
329 items and nothing else:

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

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

334 "Statement of Voter."

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

344 Signature of Voter _____

345 Date _____

346 Signature of witness _____"

347 For elections held after January 1, 2004, instead of the envelope containing the above oath, an
348 envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the
349 Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to
350 voters who are qualified to vote absentee under that Act.

351 3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the
352 applicant in person.

353 4. Printed instructions for completing the ballot and statement on the envelope and returning the
354 ballot.

355 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of
356 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter
357 votes in a federal election in the state, the printed instructions shall direct the voter to submit with his
358 ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank
359 statement, government check, paycheck or other government document that shows the name and address
360 of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of
361 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as
362 a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide
363 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
364 subsection B of § 24.2-653 and this section.

365 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee
366 Voting Act (52 U.S.C. § 20301 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 is a covered voter as defined in § 24.2-452, the electoral board, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 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. The electoral board, at the time when the printed ballots for the election are available, shall send by the deadline set forth in § 24.2-612 the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter by electronic transmission if the voter so requests. The voted ballot shall be returned to the electoral board as otherwise required by this chapter.

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.

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

§ 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board, and (e) seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral board or the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 24.2-703.3 and 24.2-705.

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar or secretary of the electoral board, or at another location or locations in the county or city approved by the electoral board, before a registrar or a member of the electoral board, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar or secretary of the electoral board for the purpose of completing the application for an absentee ballot in person pursuant to

§§ 24.2-701 and 24.2-706. 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 of § 24.2-706 to the applicant by mail, obtaining a certificate of mailing.

Failure to follow the procedures set forth above shall render the applicant's ballot void.

The electoral board of any county or city using a central absentee voting precinct may provide for the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The State Board shall prescribe procedures for the use of voting equipment. The procedures shall provide for the casting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the State Board. The procedures shall be applicable and uniformly applied by the State Board to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.

The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar or secretary of the electoral board and the general registrar, an assistant registrar, or the secretary of the electoral board is present.

§ 24.2-709. Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the electoral board or general registrar before the closing of the polls. The board member or registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by ~~an~~ *absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 a covered voter as defined in § 24.2-452* shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

C. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

§ 24.2-1004. Illegal voting and registrations; penalties.

A. Any person who wrongfully deposits a ballot in the ballot container or casts a vote on any voting equipment, is guilty of a Class 1 misdemeanor.

B. Any person who intentionally (i) votes more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (ii) procures, assists, or induces another to vote more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (iii) votes knowing that he is not qualified to vote where and when the vote is to be given, or (iv) procures, assists, or induces another to vote knowing that such person is not qualified to vote where and when the vote is to be given is guilty of a Class 6 felony.

C. Any person who intentionally (i) registers to vote at more than one residence address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to register to vote at more than one address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who, when registering to vote, changing the address at which he is registered, transferring his registration, or assisting another in registering, changing his address, or transferring his registration, provides the information required by § 24.2-418 on the applicant's place of last previous registration to vote.

D. Nothing in this section shall be construed to prohibit a ~~person entitled to vote absentee under~~

490 ~~subdivision 2 of § 24.2-700~~ covered voter as defined in § 24.2-452 from casting in the same election
491 both a state ballot and a write-in absentee ballot that is processed in the manner provided by the
492 Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.). If both ballots are
493 received prior to the close of the polls on election day, the state ballot shall be counted.
494 **2. That §§ 24.2-702 through 24.2-703.2 of the Code of Virginia are repealed.**

INTRODUCED

HB1497