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HOUSE BILL NO. 1904

Offered January 11, 2017

Prefiled January 10, 2017

A BILL to amend and reenact §§ 24.2-404, 24.2-411.1, 24.2-643, and 24.2-701 of the Code of Virginia, relating to voter identification requirements; repeal of photo identification requirements.

Patrons—Heretick, Bell, John J., Boysko, Herring, Hester, Hope, Kory, Krizek, Levine, Lindsey, Mullin, Plum, Rasoul and Simon; Senators: Ebbin, McClellan and Surovell

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-404, 24.2-411.1, 24.2-643, and 24.2-701 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-404. Duties of Department of Elections.

A. The Department of Elections shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia voter registration system, for all voters registered in the Commonwealth.

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

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.

2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.

3. Provide to each general registrar, voter confirmation documents for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places and voter photo identification cards containing the voter's photograph and signature for free for those voters who do not have one of the forms of identification specified in subsection B of § 24.2-643. The Department shall promulgate rules and regulations authorizing each general registrar to obtain a photograph and signature of a voter who does not have one of the forms of identification specified in subsection B of § 24.2-643 for the purpose of providing such voter a voter photo identification card containing the voter's photograph and signature. The Department shall provide each general registrar with the equipment necessary to obtain a voter's signature and photograph and no general registrar shall be required to purchase such equipment at his own expense. Photographs and signatures obtained by a general registrar shall be submitted to the Department. The Department may contract with an outside vendor for the production and distribution of voter photo identification cards.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Department. The Department shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.

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

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

7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The Department shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the Department shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the Department shall provide a regional or statewide list of registered voters to the general registrar of the locality. The Department shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but

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58 shall include the voter's year of birth.

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

61 9. Use any source of information that may assist in carrying out the purposes of this section. All
62 agencies of the Commonwealth shall cooperate with the Department in procuring and exchanging
63 identification information for the purpose of maintaining the voter registration system. The Department
64 may share any information that it receives from another agency of the Commonwealth with any Chief
65 Election Officer of another state for the maintenance of the voter registration system.

66 10. Cooperate with other states and jurisdictions to develop systems to compare voters, voter history,
67 and voter registration lists to ensure the accuracy of the voter registration rolls, to identify voters whose
68 addresses have changed, to prevent duplication of registration in more than one state or jurisdiction, and
69 to determine eligibility of individuals to vote in Virginia.

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

74 B. The Department shall be authorized to provide for the production, distribution, and receipt of
75 information and lists through the Virginia voter registration system by any appropriate means including,
76 but not limited to, paper and electronic means. The Virginia Freedom of Information Act (§ 2.2-3700 et
77 seq.) shall not apply to records about individuals maintained in this system.

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

82 D. The State Board shall promulgate rules and regulations to ensure the uniform application of the
83 law for determining a person's residence.

84 E. The Department shall apply to participate in the Systematic Alien Verification for Entitlements
85 Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S.
86 Department of Homeland Security for the purposes of verifying that voters listed in the Virginia voter
87 registration system are United States citizens. Upon approval of the application, the Department shall
88 enter into any required memorandum of agreement with U.S. Citizenship and Immigration Services. The
89 State Board shall promulgate rules and regulations governing the use of the immigration status and
90 citizenship status information received from the SAVE Program.

91 F. The Department shall report annually by August 1 for the preceding 12 months ending June 30 to
92 the Committees on Privileges and Elections on each of its activities undertaken to maintain the Virginia
93 voter registration system and the results of those activities. The Department's report shall encompass
94 activities undertaken pursuant to subdivisions A 9 and 10 and subsection E and pursuant to
95 §§ 24.2-404.3, 24.2-404.4, 24.2-408, 24.2-409, 24.2-409.1, 24.2-410, 24.2-410.1, 24.2-427, and 24.2-428.

96 **§ 24.2-411.1. Offices of the Department of Motor Vehicles.**

97 A. The Department of Motor Vehicles shall provide the opportunity to register to vote to each person
98 who comes to an office of the Department of Motor Vehicles to:

- 99 1. Apply for, replace, or renew a driver's license;
100 2. Apply for, replace, or renew a special identification card; or
101 3. Change an address on an existing driver's license or special identification card.

102 B. The method used to receive an application for voter registration shall avoid duplication of the
103 license portion of the license application and require only the minimum additional information necessary
104 to enable registrars to determine the voter eligibility of the applicant and to administer voter registration
105 and election laws. A person who does not sign the registration portion of the application shall be
106 deemed to have declined to register at that time. The voter application shall include a statement that, if
107 an applicant declines to register to vote, the fact the applicant has declined to register will remain
108 confidential and will be used only for voter registration purposes.

109 Each application form distributed under this section shall be accompanied by the following statement
110 featured prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A
111 MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION
112 FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY
113 BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR
114 FINED UP TO \$2,500."

115 Any completed application for voter registration submitted by a person who is already registered
116 shall serve as a written request to update his registration record. Any change of address form submitted
117 for purposes of a motor vehicle driver's license or special identification card shall serve as notification
118 of change of address for voter registration for the registrant involved unless the registrant states on the
119 form that the change of address is not for voter registration purposes. If the information from the

120 notification of change of address for voter registration indicates that the registered voter has moved to
 121 another general registrar's jurisdiction within the Commonwealth, the notification shall be treated as a
 122 request for transfer from the registered voter. The notification and the registered voter's registration
 123 record shall be transmitted as directed by the Department of Elections to the appropriate general registrar
 124 who shall send confirmation documents of the transfer to the voter pursuant to § 24.2-424. The
 125 Department of Motor Vehicles and Department of Elections shall cooperate in the prompt transmittal by
 126 electronic or other means of the notification to the appropriate general registrar.

127 C. The completed voter registration portion of the application shall be transmitted as directed by the
 128 Department of Elections not later than five business days after the date of receipt. The Department of
 129 Motor Vehicles and Department of Elections shall cooperate in the prompt transmittal by electronic or
 130 other means of the voter registration portion of the application to the appropriate general registrar.

131 D. The Department of Elections shall maintain statistical records on the number of applications to
 132 register to vote with information provided from the Department of Motor Vehicles.

133 E. A person who provides services at the Department of Motor Vehicles shall not disclose, except as
 134 authorized by law for official use, the social security number, or any part thereof, of any applicant for
 135 voter registration.

136 F. ~~The Department of Motor Vehicles shall provide assistance as required in providing voter photo~~
 137 ~~identification cards as provided in subdivision A 3 of § 24.2-404.~~

138 **§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.**

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

142 B. An officer of election shall ask the voter for his full name and current residence address and the
 143 voter may give such information orally or in writing. The officer of election shall repeat, in a voice
 144 audible to party and candidate representatives present, the full name and address provided by the voter.
 145 The officer shall ask the voter to present any one of the following forms of identification: his *voter*
 146 *registration confirmation documents*; his valid Virginia driver's license, his valid United States passport,
 147 or any other ~~photo~~ identification issued by the Commonwealth, one of its political subdivisions, or the
 148 United States; any valid student identification card ~~containing a photograph of the voter and~~ issued by
 149 any institution of higher education located in the Commonwealth or any private school located in the
 150 Commonwealth; ~~or~~ any valid employee identification card containing a photograph of the voter and
 151 issued by an employer of the voter in the ordinary course of the employer's business; *or a copy of a*
 152 *current utility bill, bank statement, government check, paycheck, or other government document that*
 153 *shows the name and address of the voter.*

154 Any voter who does not show one of the forms of identification specified in this subsection shall be
 155 offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall
 156 provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or
 157 electoral board other than matching submitted identification documents from the voter for the electoral
 158 board to make a determination on whether to count the ballot.

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

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

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

178 D. At the time the voter is asked his full name and current residence address, the officer of election
 179 shall ask any voter for whom the pollbook indicates that an identification number other than a social
 180 security number is recorded on the Virginia voter registration system if he presently has a social security

181 number. If the voter is able to provide his social security number, he shall be furnished with a voter
182 registration form prescribed by the State Board to update his registration information. Upon its
183 completion, the form shall be placed by the officer of election in an envelope provided for such forms
184 for transmission to the general registrar. Any social security numbers so provided shall be entered by the
185 general registrar in the voter's record on the voter registration system.

186 *E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any*
187 *voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002*
188 *to show identification the first time the voter votes in a federal election in the state. At such election,*
189 *such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility*
190 *bill, bank statement, government check, paycheck, or other government document that shows the name*
191 *and address of the voter. Such individual who desires to vote in person but does not show one of the*
192 *forms of identification specified in this subsection shall be offered a provisional ballot under the*
193 *provisions of § 24.2-653. Neither the identification requirements of subsection B nor the identification*
194 *requirements of subsection A of § 24.2-653 shall apply to such voter at that election. The Department of*
195 *Elections shall provide instructions to the electoral boards for the handling and counting of such*
196 *provisional ballots pursuant to subsection B of § 24.2-653 and this subsection.*

197 **§ 24.2-701. Application for absentee ballot.**

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

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

203 Except as provided in § 24.2-703, a separate application shall be completed for each election in
204 which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i)
205 12 months before an election or (ii) the day following any election held in the twelfth month prior to
206 the election in which the applicant is applying to vote.

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

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

213 For the purposes of this chapter, the general registrar's office shall be open a minimum of eight
214 hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately
215 preceding all general elections, except May general elections, and on the Saturday immediately
216 preceding any primary election, May general election, or special election.

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

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

224 1. An application completed in person shall be made not less than three days prior to the election in
225 which the applicant offers to vote and completed only in the office of the general registrar. The
226 applicant shall sign the application in the presence of a registrar. The applicant shall provide one of the
227 forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of
228 the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot
229 under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general
230 registrar for the handling and counting of such provisional ballots pursuant to subsection B of
231 § 24.2-653 and this section.

232 *For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter*
233 *who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to*
234 *show identification the first time the voter votes in a federal election in the state. After completing an*
235 *application for an absentee ballot in person, such voter shall present (i) a current and valid photo*
236 *identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or*
237 *other government document that shows the name and address of the voter. Such individual who desires*
238 *to vote in person but does not show one of the forms of identification specified in this subdivision shall*
239 *be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification*
240 *requirements of subsection B of § 24.2-643 nor the identification requirements of subsection A of*
241 *§ 24.2-653 shall apply to such voter at that election. The Department of Elections shall provide*
242 *instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to*

243 *subsection B of § 24.2-653 and this subdivision.*

244 2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile
 245 device if one is available to the office of the general registrar or the office of the State Board if a
 246 device is not available locally, or other means. The application shall be on a form furnished by the
 247 registrar or, if made under subdivision 2 of § 24.2-700, may be on a federal postcard application
 248 prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be accepted the
 249 later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month
 250 prior to the election in which the applicant is applying to vote. The application shall be made to the
 251 appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the
 252 applicant offers to vote.

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

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

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

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

268 4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a
 269 member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the
 270 spouse belongs; or

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

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

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

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

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

282 10. In the case of a person who is unable to go to the polls on the day of election because he is
 283 primarily and personally responsible for the care of an ill or disabled family member who is confined at
 284 home, his relationship to the family member; or

285 11. In the case of a person who is unable to go to the polls on the day of election because of an
 286 obligation occasioned by his religion, that he has an obligation occasioned by his religion; or

287 12. In the case of a person who, in the regular and orderly course of his business, profession, or
 288 occupation, will be at his place of work and commuting to and from his home to his place of work for
 289 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his
 290 business or employer and hours he will be at the workplace and commuting on election day; or

291 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in
 292 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in
 293 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first
 294 responder; or

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