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HOUSE BILL NO. 2091

Offered January 11, 2017

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A *BILL to amend and reenact §§ 24.2-612, 24.2-700, 24.2-701, and 24.2-707 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-700.1, relating to early voting.*

 Patron—Kory

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-612, 24.2-700, 24.2-701, and 24.2-707 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-700.1 as follows:

§ 24.2-612. List of offices and candidates filed with Department of Elections 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 general registrar shall forward to the Department of Elections 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 general registrar shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the general registrar 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 Department of Elections shall promptly advise the general registrar of the accuracy of the list. The failure of any general registrar to send the list to the Department of Elections for verification shall not invalidate any election.

Each general registrar shall have printed the number of ballots he determines will be sufficient to conduct the election. Such determination shall be subject to the approval by the electoral board.

Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise provide 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 only for federal elections under § 24.2-453. The Department of Elections 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 Department of Elections shall execute the statement required by § 24.2-616. The Department of Elections shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate general registrars pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board or the general registrar shall affix the seal of the electoral board. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the Department of Elections shall specifically direct.

The general registrar shall make printed ballots available for absentee voting *by mail* 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. *The general registrar shall make printed ballots available for early voting not later than 21 days prior to any election.* In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the general registrar 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. Not later than five days after absentee ballots are made available, each general registrar shall report to the Department of Elections, in writing on a form approved by the Department of Elections, whether he 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 general registrar shall send to the Department of Elections 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 Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable number of additional ballots.

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

The following registered voters may vote by absentee ballot *by mail* in accordance with the provisions of this chapter in any election in which they are 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.

§ 24.2-700.1. Early voting.

A. Any registered voter may vote early in accordance with the provisions of this section in any election in which he is qualified to vote, without providing one of the reasons listed in § 24.2-700 or completing an application for an absentee ballot as prescribed in § 24.2-701. A registered voter voting early shall provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show one of the forms of identification specified in subsection B of § 24.2-643, he shall be offered a provisional ballot under the provisions of § 24.2-653.

B. Early voting shall be available on the twenty-first day prior to any general election, the seventh day prior to any special election held on a date other than the date of a general election, and the seventh day prior to any primary election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election. Early voting shall be available during regular business hours each weekday during the applicable period, from 9:00 a.m. to 5:00 p.m. on each Saturday during the applicable period, and from 12:00 p.m. to 4:00 p.m. on each Sunday during the applicable period. Notice of the times for early voting shall be given in accordance with the instructions of the State Board. At least two officers of election shall be present during all hours that early voting is available and shall represent the two major political parties, except in the case of a party primary, when they may represent the party conducting the primary.

C. The electoral boards shall provide for early voting in the office of the general registrar or the secretary of the electoral board and may provide for early voting in a central absentee voter precinct established pursuant to § 24.2-712 or an additional location in the county or city approved by the electoral board. Any such location shall be in a public building owned or leased by the county, city, or town within the county and may be in a facility that is owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Any such location shall have adequate facilities for the protection of all records concerning the process of early voting, the voted and unvoted ballots, and any voting systems in use at the location. Notice of the locations for early voting shall be given in accordance with the instructions of the State Board.

D. Any voter who votes early in accordance with this section may cast his ballot on a voting system.

The State Board shall prescribe the procedures for use of voting systems. The procedures shall provide for early voting on voting systems that have been certified and are currently approved by the State Board. The procedures shall be applicable and uniformly applied by the Department of Elections to all localities using comparable voting systems. The requirement that two officers of election be present during the hours that early voting is available shall be not applicable when (i) the voting systems being used are located in the office of the general registrar or the secretary of the electoral board and (ii) an officer of election and the general registrar, an assistant registrar, or the secretary of the electoral board are present.

E. The State Board shall provide instructions for the preparation, maintenance, and reporting of ballots, pollbooks, records, and returns for early voting.

§ 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. Electronic absentee ballot applications shall be in a form approved by the State Board.

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.

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.

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. 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 general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

2. ~~Any other~~ An application for a mailed absentee ballot may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a federal 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 mailed absentee ballots shall contain the following information:

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

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

182 may file the applications to register and for a ballot simultaneously;

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

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

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

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

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

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

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

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

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

209 12. In the case of a person who, in the regular and orderly course of his business, profession, or
210 occupation, will be at his place of work and commuting to and from his home to his place of work for
211 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his
212 business or employer and hours he will be at the workplace and commuting on election day; or

213 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in
214 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in
215 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first
216 responder; or

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

221 **§ 24.2-707. How absentee ballots marked and returned by mail.**

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

226 After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope
227 provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of
228 the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot
229 envelope and any required assistance form within the envelope directed to the general registrar, and (e)
230 seal that envelope and mail it to the office of the general registrar or deliver it personally to the general
231 registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name
232 or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to
233 provide in the statement on the back of the envelope his full first and last name. A voter's failure to
234 provide the date, or any part of the date, including the year, on which he signed the statement printed
235 on the back of the envelope shall not be considered a material omission and shall not render his ballot
236 void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but
237 shall not include delivery by a personal courier service or another individual except as provided by
238 §§ 24.2-703.2 and 24.2-705.

239 An applicant who makes his application to vote in person at a time when the printed ballots for the
240 election are available shall follow the same procedure set forth above except that he may complete the
241 procedure in person in the office of the general registrar, or at another location or locations in the
242 county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time,
243 before the officers of election appointed by the electoral board. Any such location shall be in a public

244 building owned or leased by the city, the county, or a town within the county, with adequate facilities
245 for the protection of all records concerning the absentee voters, the absentee ballots, both voted and
246 unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or
247 leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for
248 an office of the general registrar. Such location shall be deemed the equivalent of the office of the
249 general registrar for the purpose of completing the application for an absentee ballot in person pursuant
250 to §§ ~~24.2-701~~ and ~~24.2-706~~. On the request of the applicant, made no later than 5:00 p.m. on the
251 seventh day prior to the election in which the applicant offers to vote, the general registrar may send the
252 items set forth in subdivisions ~~1~~ through ~~4~~ of § ~~24.2-706~~ to the applicant by mail, obtaining a certificate
253 or other evidence of mailing.

254 Failure to follow the procedures set forth above *in this section* shall render the applicant's ballot void.

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

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