

19101941D

**HOUSE BILL NO. 1794**

Offered January 9, 2019

Prefiled December 27, 2018

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.*

Patrons—VanValkenburg, Adams, D.M., Ayala, Bagby, Bourne, Delaney, Gooditis, Hope, Kory, Krizek, Levine, Lindsey, Lopez, McQuinn, Mullin, Rasoul, Reid, Rodman, Roem, Sickles, Simon, Toscano and Turpin; Senators: Edwards and Marsden

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 based on the number of active registered voters and historical election data, including voter turnout, and 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 15 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

INTRODUCED

HB1794

57 ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the  
 58 Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any  
 59 general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable  
 60 number of additional ballots.

61 **§ 24.2-700. Persons entitled to vote by absentee ballot by mail.**

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

64 1. Any person who, in the regular and orderly course of his business, profession, or occupation or  
 65 while on personal business or vacation, will be absent from the county or city in which he is entitled to  
 66 vote;

67 2. Any person who is (i) a member of a uniformed service, as defined in § 24.2-452, on active duty,  
 68 (ii) temporarily residing outside of the United States, or (iii) the spouse or dependent residing with any  
 69 person listed in clause (i) or (ii), and who will be absent on the day of the election from the county or  
 70 city in which he is entitled to vote;

71 3. Any student attending a school or institution of higher education, or his spouse, who will be  
 72 absent on the day of election from the county or city in which he is entitled to vote;

73 4. Any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in  
 74 person to the polls on the day of election because of his disability, illness, or pregnancy;

75 5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor,  
 76 provided that the trial or release date is scheduled on or after the third day preceding the election. Any  
 77 person who is awaiting trial and is a resident of the county or city where he is confined shall, on his  
 78 request, be taken to the polls to vote on election day if his trial date is postponed and he did not have  
 79 an opportunity to vote absentee;

80 6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of  
 81 voting equipment;

82 7. Any duly registered person who is unable to go in person to the polls on the day of the election  
 83 because he is primarily and personally responsible for the care of an ill or disabled family member who  
 84 is confined at home;

85 8. Any duly registered person who is unable to go in person to the polls on the day of the election  
 86 because of an obligation occasioned by his religion;

87 9. Any person who, in the regular and orderly course of his business, profession, or occupation, will  
 88 be at his place of work and commuting to and from his home to his place of work for 11 or more hours  
 89 of the 13 hours that the polls are open pursuant to § 24.2-603;

90 10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in  
 91 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in  
 92 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1;

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

96 12. Any person granted a protective order issued by or under the authority of any court of competent  
 97 jurisdiction.

98 **§ 24.2-700.1. Early voting.**

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

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

115 *C. The electoral boards shall provide for early voting in the office of the general registrar or the*  
 116 *secretary of the electoral board and may provide for early voting in a central absentee voter precinct*  
 117 *established pursuant to § 24.2-712 or an additional location in the county or city approved by the*  
 118 *electoral board. Any such location shall be in a public building owned or leased by the county, city, or*

119 town within the county and may be in a facility that is owned or leased by the Commonwealth and used  
120 as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Any  
121 such location shall have adequate facilities for the protection of all records concerning the process of  
122 early voting, the voted and unvoted ballots, and any voting systems in use at the location. Notice of the  
123 locations for early voting shall be given in accordance with the instructions of the State Board.

124 D. Any voter who votes early in accordance with this section may cast his ballot on a voting system.  
125 The State Board shall prescribe the procedures for use of voting systems. The procedures shall provide  
126 for early voting on voting systems that have been certified and are currently approved by the State  
127 Board. The procedures shall be applicable and uniformly applied by the Department of Elections to all  
128 localities using comparable voting systems. The requirement that two officers of election be present  
129 during the hours that early voting is available shall not be applicable when (i) the voting systems being  
130 used are located in the office of the general registrar or the secretary of the electoral board and (ii) an  
131 officer of election and the general registrar, an assistant registrar, or the secretary of the electoral  
132 board are present.

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

135 **§ 24.2-701. Application for mailed absentee ballot.**

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

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

141 Except as provided in § 24.2-703, a separate application shall be completed for each election in  
142 which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i)  
143 12 months before an election or (ii) the day following any election held in the twelfth month prior to  
144 the election in which the applicant is applying to vote.

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

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

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

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

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

162 1. An application completed in person shall be made not less than three days prior to the election in  
163 which the applicant offers to vote and completed only in the office of the general registrar. The  
164 applicant shall sign the application in the presence of a registrar. The applicant shall provide one of the  
165 forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of  
166 the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot  
167 under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the  
168 general registrar for the handling and counting of such provisional ballots pursuant to subsection B of  
169 § 24.2-653 and this section.

170 2. Any other An application for a mailed absentee ballot may be made in person in the office of the  
171 general registrar, by mail, by electronic or telephonic transmission to a facsimile device if one is  
172 available to the office of the general registrar or the office of the State Board if a device is not available  
173 locally, or by other means. The application shall be on a form furnished by the registrar or, if made  
174 under subdivision 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 52  
175 U.S.C. § 20301(b)(2). The federal postcard application may be accepted the later of (i) 12 months before  
176 an election or (ii) the day following any election held in the twelfth month prior to the election in which  
177 the applicant is applying to vote. The application shall be made to the appropriate registrar no later than  
178 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

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

180 1. The applicant's printed name, the last four digits of the applicant's social security number, and the  
181 reason the applicant will be absent or cannot vote at his polling place on the day of the election.  
182 However, an applicant completing the application in person shall not be required to provide the last four  
183 digits of his social security number;

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

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

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

199 5. In the case of a student, or the spouse of a student, who is attending a school or institution of  
200 higher education, the name of the school or institution of higher education; or

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

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

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

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

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

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

215 12. In the case of a person who, in the regular and orderly course of his business, profession, or  
216 occupation, will be at his place of work and commuting to and from his home to his place of work for  
217 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his  
218 business or employer and hours he will be at the workplace and commuting on election day; or

219 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in  
220 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in  
221 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first  
222 responder; or

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

227 15. In the case of a person who has been granted a protective order issued by or under the authority  
228 of any court of competent jurisdiction, the name of the county or city in Virginia or the state of the  
229 issuing court.

230 **§ 24.2-707. How ballots marked and returned by mail.**

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

235 After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope  
236 provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of  
237 the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot  
238 envelope and any required assistance form within the envelope directed to the general registrar, and (e)  
239 seal that envelope and mail it to the office of the general registrar or deliver it personally to the general  
240 registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name  
241 or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to

242 provide in the statement on the back of the envelope his full first and last name. A voter's failure to  
 243 provide the date, or any part of the date, including the year, on which he signed the statement printed  
 244 on the back of the envelope shall not be considered a material omission and shall not render his ballot  
 245 void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but  
 246 shall not include delivery by a personal courier service or another individual except as provided by  
 247 §§ 24.2-703.2 and 24.2-705.

248 An applicant who makes his application to vote in person at a time when the printed ballots for the  
 249 election are available shall follow the same procedure set forth above except that he may complete the  
 250 procedure in person in the office of the general registrar, or at another location or locations in the  
 251 county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time,  
 252 before the officers of election appointed by the electoral board. Any such location shall be in a public  
 253 building owned or leased by the city, the county, or a town within the county, with adequate facilities  
 254 for the protection of all records concerning the absentee voters, the absentee ballots, both voted and  
 255 unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or  
 256 leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for  
 257 an office of the general registrar. Such location shall be deemed the equivalent of the office of the  
 258 general registrar for the purpose of completing the application for an absentee ballot in person pursuant  
 259 to §§ ~~24.2-701~~ and ~~24.2-706~~. On the request of the applicant, made no later than 5:00 p.m. on the  
 260 seventh day prior to the election in which the applicant offers to vote, the general registrar may send the  
 261 items set forth in subdivisions 1 through 4 of § ~~24.2-706~~ to the applicant by mail, obtaining a certificate  
 262 or other evidence of mailing.

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

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

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