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HOUSE BILL NO. 2266

Offered January 9, 2019

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A BILL to amend and reenact §§ 24.2-114, 24.2-404, 24.2-404.4, and 24.2-427 of the Code of Virginia, relating to voter registration; confirmation of citizenship; E-Verify program.

Patron—Poindexter

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-114, 24.2-404, 24.2-404.4, and 24.2-427 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-114. Duties and powers of general registrar.

In addition to the other duties required by this title, the general registrar, and the assistant registrars acting under his supervision, shall:

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of § 24.2-412.

2. Participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

3. Perform his duties within the county or city he was appointed to serve, except that a registrar may (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.

4. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.

5. Indicate on the registration records for each accepted mail voter registration application form returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 that the registrant has registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the State Board so that those persons who registered by mail are identified on the registration records, lists of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to § 24.2-406, and pollbooks used for the conduct of elections.

6. Accept a registration application or request for transfer or change of address submitted by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications and requests for transfer or change of address from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application or request to the registrar of the applicant's residence. Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's residence shall recognize as timely any application or request for transfer or change of address submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.), prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant, including whether the applicant has ever been convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored, and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer. *Whenever there is a question about the citizenship of an applicant, the registrar shall submit the applicant's information to be checked against information regarding citizenship status to which the Department of Elections has access under agreements entered into pursuant to §§ 24.2-404 and 24.2-410.1 and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer.* However, notification shall not be required when the registrar does not have an address for the applicant.

7. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for

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59 purposes of this title.

60 8. Maintain the official registration records for his county or city in the system approved by, and in
61 accordance with the instructions of, the State Board; preserve the written applications of all persons who
62 are registered; and preserve for a period of four years the written applications of all persons who are
63 denied registration or whose registration is cancelled.

64 9. If a person is denied registration, promptly notify such person in writing of the denial and the
65 reason for denial in accordance with § 24.2-422.

66 10. Verify the accuracy of the pollbooks provided for each election by the State Board, make the
67 pollbooks available to the precincts, and according to the instructions of the State Board provide a copy
68 of the data from the pollbooks to the State Board after each election for voting credit purposes.

69 11. Retain the pollbooks in his principal office for two years from the date of the election.

70 12. Maintain accurate and current registration records and comply with the requirements of this title
71 for the transfer, inactivation, and cancellation of voter registrations.

72 13. Whenever election districts, precincts, or polling places are altered, provide for entry into the
73 voter registration system of the proper district and precinct designations for each registered voter whose
74 districts or precinct have changed and notify each affected voter of changes affecting his districts or
75 polling place by mail.

76 14. Whenever any part of his county or city becomes part of another jurisdiction by annexation,
77 merger, or other means, transfer to the appropriate general registrar the registration records of the
78 affected registered voters. The general registrar for their new county or city shall notify them by mail of
79 the transfer and their new election districts and polling places.

80 15. When he registers any person who was previously registered in another state, notify the
81 appropriate authority in that state of the person's registration in Virginia by providing electronically,
82 through the Department of Elections, the information contained in that person's registration application.

83 16. Whenever any person is believed to be registered or voting in more than one state or territory of
84 the United States at the same time, inquire about, or provide information from the voter's registration
85 and voting records to any appropriate voter registration or other authority of another state or territory
86 who inquires about, that person's registration and voting history.

87 17. At the request of the county or city chairman of any political party nominating a candidate for
88 the General Assembly, constitutional office, or local office by a method other than a primary, review
89 any petition required by the party in its nomination process to determine whether those signing the
90 petition are registered voters with active status.

91 18. Carry out such other duties as prescribed by the electoral board in his capacity as the director of
92 elections for the locality in which he serves.

93 19. Attend an annual training program provided by the State Board. A general registrar may
94 designate one member of his staff to attend such training program if he is unable to attend because of a
95 personal or family emergency.

96 **§ 24.2-404. Duties of Department of Elections.**

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

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

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

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

104 3. Provide to each general registrar, voter confirmation documents for newly registered voters and for
105 notice to registered voters on the system of changes and corrections in their registration records and
106 polling places and voter photo identification cards containing the voter's photograph and signature for
107 free for those voters who do not have one of the forms of identification specified in subsection B of
108 § 24.2-643. The Department shall promulgate rules and regulations authorizing each general registrar to
109 obtain a photograph and signature of a voter who does not have one of the forms of identification
110 specified in subsection B of § 24.2-643 for the purpose of providing such voter a voter photo
111 identification card containing the voter's photograph and signature. The Department shall provide each
112 general registrar with the equipment necessary to obtain a voter's signature and photograph and no
113 general registrar shall be required to purchase such equipment at his own expense. Photographs and
114 signatures obtained by a general registrar shall be submitted to the Department. The Department may
115 contract with an outside vendor for the production and distribution of voter photo identification cards.

116 4. Require the general registrars to delete from the record of registered voters the name of any voter
117 who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to
118 removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated,
119 (v) is known not to be a United States citizen by reason of reports from the Department of Motor
120 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 the E-Verify program pursuant to subsection F, 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 shall include the voter's year of birth.

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

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

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

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

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

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

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

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

F. The Department shall apply to participate in the E-Verify program operated by the U.S. Department of Homeland Security in partnership with the Social Security Administration for the purpose of verifying that voters listed in the Virginia voter registration system are United States citizens. Upon approval of the application, the Department shall enter into any required memorandum of agreement with U.S. Citizenship and Immigration Services. The State Board shall promulgate rules and regulations governing the use of the immigration status and citizenship status information received from the E-Verify program.

182 G. The Department shall report annually by October 1 for the preceding 12 months ending August
183 31 to the Committees on Privileges and Elections on each of its activities undertaken to maintain the
184 Virginia voter registration system and the results of those activities. The Department's report shall be
185 governed by the provisions of § 2.2-608 and shall encompass activities undertaken pursuant to
186 subdivisions A 9 and 10 and subsection E and pursuant to §§ 24.2-404.3, 24.2-404.4, 24.2-408,
187 24.2-409, 24.2-409.1, 24.2-410, 24.2-410.1, 24.2-427, and 24.2-428. This report shall contain the
188 methodology used in gathering and analyzing the data. The Commissioner of Elections shall certify that
189 the data included in the report is accurate and reliable.

190 **§ 24.2-404.4. Exchange of registered voter lists with other states.**

191 A. Pursuant to its authority under subsection A of § 24.2-405 and subsections B and C of § 24.2-406,
192 the Department of Elections shall request voter registration information and lists of persons voting at
193 primaries and elections, if available, from the states bordering the Commonwealth to identify duplicate
194 registrations, voters who no longer reside in the Commonwealth, and other persons who are no longer
195 entitled to be registered in order to maintain the overall accuracy of the voter registration system.

196 B. Pursuant to its authority under subdivision A 10 of § 24.2-404, the Department of Elections shall
197 utilize data regarding voter registration and lists of persons voting at primaries and elections received
198 through list comparisons with other states to identify duplicate registrations, voters who no longer reside
199 in the Commonwealth, and other persons who are no longer entitled to be registered in order to maintain
200 the overall accuracy of the voter registration system.

201 C. The Department shall compare the data received pursuant to subsections A and B with the state
202 voter registration list and initiate list maintenance procedures under applicable state and federal law. The
203 Department shall include in its report to the House and Senate Committees on Privileges and Elections,
204 required by subsection F G of § 24.2-404, the progress of activities conducted under this section,
205 including the number of duplicate registrations found to exist and the procedures that the Department
206 and general registrars are following to eliminate duplicate registrations from the Virginia registered voter
207 lists.

208 **§ 24.2-427. Cancellation of registration by voter or for persons known to be deceased or**
209 **disqualified to vote.**

210 A. Any registered voter may cancel his registration and have his name removed from the central
211 registration records by signing an authorization for cancellation and mailing or otherwise submitting the
212 signed authorization to the general registrar. When submitted by any means other than when notarized or
213 in person, such cancellation must be made at least 22 days prior to an election in order to be valid in
214 that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in
215 person or by first-class mail that his registration has been canceled within 10 days of receipt of such
216 authorization.

217 B. The general registrar shall cancel the registration of (i) all persons known by him to be deceased
218 or disqualified to vote by reason of a felony conviction or adjudication of incapacity; (ii) all persons
219 known by him not to be United States citizens by reason of reports from the Department of Motor
220 Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received
221 from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to
222 subsection E of § 24.2-404 *or the E-Verify program pursuant to subsection F of § 24.2-404* and in
223 accordance with the requirements of subsection B1; (iii) all persons for whom a notice has been
224 received, signed by the voter, or from the registration official of another jurisdiction that the voter has
225 moved from the Commonwealth; and (iv) all persons for whom a notice has been received, signed by
226 the voter, or from the registration official of another jurisdiction that the voter has registered to vote
227 outside the Commonwealth, subsequent to his registration in Virginia. The notice received in clauses (iii)
228 and (iv) shall be considered as a written request from the voter to have his registration cancelled. A
229 voter's registration may be cancelled at any time during the year in which the general registrar discovers
230 that the person is no longer entitled to be registered. The general registrar shall mail notice of any
231 cancellation to the person whose registration is cancelled.

232 B1. The general registrar shall mail notice promptly to all persons known by him not to be United
233 States citizens by reason of a report from the Department of Motor Vehicles pursuant to § 24.2-410.1 or
234 from the Department of Elections based on information received from the Systematic Alien Verification
235 for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404 *or the E-Verify*
236 *program pursuant to subsection F of § 24.2-404* prior to cancelling their registrations. The notice shall
237 inform the person of the report from the Department of Motor Vehicles or from the Department of
238 Elections and allow the person to submit his sworn statement that he is a United States citizen within 14
239 days of the date that the notice was mailed. The general registrar shall cancel the registrations of such
240 persons who do not respond within 14 days to the notice that they have been reported not to be United
241 States citizens.

242 B2. The general registrar shall (i) process the Department's most recent list of persons convicted of
243 felonies within 21 to 14 days before any primary or general election, (ii) cancel the registration of any

244 registered voter shown to have been convicted of a felony who has not provided evidence that his right
245 to vote has been restored, and (iii) send prompt notice to the person of the cancellation of his
246 registration. If it appears that any registered voter has made a false statement on his registration
247 application with respect to his having been convicted of a felony, the general registrar shall report the
248 fact to the attorney for the Commonwealth for prosecution under § 24.2-1016 for a false statement made
249 on his registration application.

250 C. The general registrar may cancel the registration of any person for whom a notice has been
251 submitted to the Department of Motor Vehicles in accordance with the Driver License Compact set out
252 in Article 18 (§ 46.2-483 et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that
253 the voter has moved from the Commonwealth; provided that the registrar shall mail notice of such
254 cancellation to the person at both his new address, as reported to the Department of Motor Vehicles, and
255 the address at which he had most recently been registered in Virginia. No general registrar may cancel
256 registrations under this authority while the registration records are closed pursuant to § 24.2-416. No
257 registrar may cancel the registration under this authority of any person entitled to register under the
258 provisions of subsection A of § 24.2-420.1, and shall reinstate the registration of any otherwise qualified
259 voter covered by subsection A of § 24.2-420.1 who applies to vote within four years of the date of
260 cancellation.