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HOUSE BILL NO. 2709

Offered January 15, 2019

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—Sullivan

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 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

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59 number of additional ballots.

60 **§ 24.2-700. Persons entitled to vote by absentee ballot by mail.**

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

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

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

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

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

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

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

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

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

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

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

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

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

97 **§ 24.2-700.1. Early voting.**

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

104 B. Early voting shall be available on the twenty-first day prior to any general election, the seventh
105 day prior to any special election held on a date other than the date of a general election, and the
106 seventh day prior to any primary election, and shall continue until 5:00 p.m. on the Saturday
107 immediately preceding the election. Early voting shall be available during regular business hours each
108 weekday during the applicable period, from 8:00 a.m. to 5:00 p.m. on each Saturday during the
109 applicable period, and from 12:00 p.m. to 4:00 p.m. on each Sunday during the applicable period.
110 Notice of the times for early voting shall be given in accordance with the instructions of the State
111 Board. At least two officers of election shall be present during all hours that early voting is available
112 and shall represent the two major political parties, except in the case of a party primary, when they
113 may represent the party conducting the primary.

114 C. The electoral boards shall provide for early voting in the office of the general registrar or the
115 secretary of the electoral board and may provide for early voting in a central absentee voter precinct
116 established pursuant to § 24.2-712 or an additional location in the county or city approved by the
117 electoral board. Any such location shall be in a public building owned or leased by the county, city, or
118 town within the county and may be in a facility that is owned or leased by the Commonwealth and used
119 as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Any
120 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 not be 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 mailed 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 in person in the office of the general registrar, by mail, by 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 by 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. However, an applicant completing the application in person shall not be required to provide the last four

182 digits of his social security number;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

229 **§ 24.2-707. How ballots marked and returned by mail.**

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

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

void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar, or at another location or locations in the county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-704 and 24.2-706. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant by mail, obtaining a certificate or other evidence of mailing.

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

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

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

2. That the provisions of this act shall apply to elections beginning with the general election on November 3, 2020.

3. That the State Board of Elections, on or before December 1, 2019, shall submit a report to the Governor, the General Assembly, and the House and Senate Committees on Privileges and Elections on the procedures and instructions promulgated by it for conducting early voting pursuant to the provisions of this act. The report shall include recommendations to be considered by the General Assembly for any further legislation that may be necessary for implementation of the provisions of this act.