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## SENATE BILL NO. 1026

Offered January 9, 2019

Prefiled October 17, 2018

A *BILL to amend and reenact §§ 24.2-416.1, 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703.1, 24.2-703.2, 24.2-706, 24.2-709, and 24.2-1004 of the Code of Virginia, relating to absentee voting; no-excuse absentee.*

Patrons—Spruill, Petersen, Dance, Howell, Locke, Barker, Boysko, Edwards, Favola, Lucas, Marsden, Mason, McPike and Surovell; Delegates: Convirs-Fowler and Kory

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 24.2-416.1, 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703.1, 24.2-703.2, 24.2-706, 24.2-709, and 24.2-1004 of the Code of Virginia are amended and reenacted as follows:

**§ 24.2-416.1. Voter registration by mail.**

A. A person may apply to register to vote by mail by completing and returning a mail voter registration application form in the manner and time provided by law.

B. Any person, who applies to register to vote by mail pursuant to this article and who has not previously voted in the county or city in which he registers to vote, shall be required to vote in person, either at the polls on election day or in-person absentee. However, this requirement to vote in person shall not apply to a person so long as he (i) is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20302 et seq.); (ii) is provided the right to vote otherwise than in person under § 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20102(b)(2)(B)(ii)), including any disabled voter and any voter age 65 or older who is otherwise qualified to vote absentee under § 24.2-700; (iii) is entitled to vote otherwise than in person under other federal law; (iv) is a full-time student in an institution of higher education; or (v) requests to vote an absentee ballot by mail for presidential and vice-presidential elections only, for any reason, as entitled by federal law.

**§ 24.2-452. Definitions.**

As used in this chapter, unless the context requires a different meaning:

1. "Covered voter" means:

- a. A uniformed-service voter or an overseas voter who is registered to vote in this state;
- b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, ~~including subdivision 2 of § 24.2-700;~~
- c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
- d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
- e. An overseas voter who was born outside the United States, is not described in subdivision c or d, and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:

(1) The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this state; and

(2) The voter has not previously registered to vote in any other state.

2. "Dependent" means an individual recognized as a dependent by a uniformed service.

3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301(b)(2).

4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20303, that may be used in all elections in which the voter is eligible to vote as provided in § 24.2-702.1.

5. "Military-overseas ballot" means:

- a. A federal write-in absentee ballot;
- b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title; or
- c. A ballot cast by a covered voter in accordance with this title.

6. "Overseas voter" means a United States citizen who is outside the United States.

7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States

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58 Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

59 8. "Uniformed service" means:

60 a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of  
61 the United States;

62 b. The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned  
63 corps of the National Oceanic and Atmospheric Administration of the United States; or

64 c. The Virginia National Guard.

65 9. "Uniformed-service voter" means an individual who is qualified to vote and is:

66 a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or  
67 Coast Guard of the United States who is on active duty;

68 b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the  
69 commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

70 c. A member on activated status of the National Guard; or

71 d. A spouse or dependent of a member referred to in this definition.

72 10. "United States," used in the territorial sense, means the several states, the District of Columbia,  
73 Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the  
74 jurisdiction of the United States.

75 **§ 24.2-612. List of offices and candidates filed with Department of Elections and checked for**  
76 **accuracy; when ballots printed; number required.**

77 Immediately after the expiration of the time provided by law for a candidate for any office to qualify  
78 to have his name printed on the official ballot and prior to printing the ballots for an election, each  
79 general registrar shall forward to the Department of Elections a list of the county, city, or town offices  
80 to be filled at the election and the names of all candidates who have filed for each office. In addition,  
81 each general registrar shall forward the name of any candidate who failed to qualify with the reason for  
82 his disqualification. On that same day, the general registrar shall also provide a copy of the notice to  
83 each disqualified candidate. The notice shall be sent by email or regular mail to the address on the  
84 candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The  
85 Department of Elections shall promptly advise the general registrar of the accuracy of the list. The  
86 failure of any general registrar to send the list to the Department of Elections for verification shall not  
87 invalidate any election.

88 Each general registrar shall have printed the number of ballots he determines will be sufficient to  
89 conduct the election. Such determination shall be based on the number of active registered voters and  
90 historical election data, including voter turnout, and shall be subject to the approval by the electoral  
91 board.

92 Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise  
93 provide one statewide paper ballot style for each paper ballot style in use for presidential and  
94 vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402  
95 or only for federal elections under § 24.2-453. The Department of Elections may apportion or authorize  
96 the printer or vendor to apportion the costs for these ballots among the localities based on the number of  
97 ballots ordered. Any printer employed by the Department of Elections shall execute the statement  
98 required by § 24.2-616. The Department of Elections shall designate a representative to be present at the  
99 printing of such ballots and deliver them to the appropriate general registrars pursuant to § 24.2-617.  
100 Upon receipt of such paper ballots, the electoral board or the general registrar shall affix the seal of the  
101 electoral board. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the  
102 Department of Elections shall specifically direct.

103 The general registrar shall make printed ballots available for absentee voting not later than 45 days  
104 prior to any election or within three business days of the receipt of a properly completed absentee ballot  
105 application, whichever is later. In the case of a special election, excluding for federal offices, if time is  
106 insufficient to meet the applicable deadline established herein, then the general registrar shall make  
107 printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making  
108 printed ballots available includes mailing of such ballots or electronic transmission of such ballots  
109 pursuant to § 24.2-706 to a ~~qualified absentee voter who is eligible for an absentee ballot under~~  
110 ~~subdivision 2 of § 24.2-700 covered voter, as defined in § 24.2-452.~~ Not later than five days after  
111 absentee ballots are made available, each general registrar shall report to the Department of Elections, in  
112 writing on a form approved by the Department of Elections, whether he has complied with the  
113 applicable deadline.

114 Only the names of candidates for offices to be voted on in a particular election district shall be  
115 printed on the ballots for that election district.

116 The general registrar shall send to the Department of Elections a statement of the number of ballots  
117 ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the  
118 Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any  
119 general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable

number of additional ballots.

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

The following Any registered voters *voter* may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are *he* is 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 higher education, 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;

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; or

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

**§ 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 covered voter, as defined in § 24.2-452.

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

181 he has not and will not vote in the election at any other place in Virginia or in any other state. If the  
182 applicant is unable to sign the application, a person assisting the applicant will note this fact on the  
183 applicant signature line and provide his signature, name, and address.

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

185 1. An application completed in person shall be made not less than three days prior to the election in  
186 which the applicant offers to vote and completed only in the office of the general registrar. The  
187 applicant shall sign the application in the presence of a registrar. The applicant shall provide one of the  
188 forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of  
189 the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot  
190 under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general  
191 registrar for the handling and counting of such provisional ballots pursuant to subsection B of  
192 § 24.2-653 and this section.

193 2. Any other application may be made by mail, by electronic or telephonic transmission to a  
194 facsimile device if one is available to the office of the general registrar or to the office of the State  
195 Board if a device is not available locally, or by other means. The application shall be on a form  
196 furnished by the registrar or; if made under subdivision 2 of § 24.2-700, may be on a federal postcard  
197 application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be  
198 accepted the later of (i) 12 months before an election or (ii) the day following any election held in the  
199 twelfth month prior to the election in which the applicant is applying to vote. The application shall be  
200 made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in  
201 which the applicant offers to vote as specified in subdivision 3.

202 3. The application of any covered voter, as defined in § 24.2-452, may be on a federal postcard  
203 application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be  
204 accepted the later of (i) 12 months before an election or (ii) the day following any election held in the  
205 twelfth month prior to the election in which the applicant is applying to vote. The application shall be  
206 made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in  
207 which the applicant offers to vote.

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

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

213 2. A statement that he is registered in the county or city in which he offers to vote and his residence  
214 address in such county or city. Any person temporarily residing outside the United States shall provide  
215 the last date of residency at his Virginia residence address, if that residence is no longer available to  
216 him. Any person who makes application under subdivision 2 of § 24.2-700 covered voter, as defined in  
217 § 24.2-452, who is not a registered voter may file the applications to register and for a ballot  
218 simultaneously; and

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

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

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

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

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

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

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

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

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

12. In the case of a 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, the name of his business or employer and hours he will be at the workplace and commuting on election day; or

13. In the case of 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, that he is a first responder; or

14. In the case of a 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, the fact that he is so designated; or

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

#### § 24.2-702.1. Federal write-in absentee ballots.

A. Notwithstanding any other provision of this title, a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 *covered voter, as defined in § 24.2-452*, may use a federal write-in absentee ballot in any election. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) and this article.

B. Notwithstanding any other provision of this title, a federal write-in absentee ballot submitted pursuant to subsection A shall be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a completed absentee ballot, provided that the ballot is received no later than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the voter offers to vote, and the application contains the following information: (i) the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's printed name; (iii) the county or city in which he is registered and offers to vote; (iv) the residence address at which he is registered to vote; (v) his current military or overseas address; and (vi) the signature of a witness who shall sign the same application.

C. This section shall not be construed to require that an absentee ballot be sent to the absentee voter on receipt of a federal write-in absentee ballot unless the voter has also submitted an absentee ballot application pursuant to § 24.2-701 or 24.2-703.

#### § 24.2-703.1. Special annual applications for absentee ballots for certain ill or disabled voters.

Any person who is eligible for an absentee ballot under subdivision 4 of § 24.2-700 because of a disability or illness and who is likely to remain so eligible *with a disability or illness whose disability or illness is likely to continue* for the remainder of the calendar year shall be eligible to file a special annual application to receive ballots for all elections in which he is eligible to vote in a calendar year. His first such application shall be accompanied by a statement, on a form prescribed by the State Board and signed by the voter and his physician, provider as defined in § 37.2-403, or accredited religious practitioner, that the voter is eligible for an absentee ballot under subdivision 4 of § 24.2-700 and likely to remain so eligible *is a person with a disability or illness whose disability or illness is likely to continue* for the remainder of the calendar year.

In accordance with procedures established by the State Board, the general registrar shall retain the application and form, enroll the applicant on a special absentee voter applicant list, and process the applicant's request for an absentee ballot for each succeeding election in the calendar year. The applicant shall specify by party designation the primary ballots he is requesting.

The general registrar shall send each such enrolled applicant a blank application by December 15 for each ensuing calendar year, and upon completion thereof, the applicant shall be eligible to receive ballots for all elections in which he is eligible to vote in that calendar year.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, or the general registrar knows that the applicant is no longer a qualified voter, no ballot for any subsequent election shall be sent to the voter until a new application is filed and accepted.

#### § 24.2-703.2. Replacement absentee ballots for certain disabled or ill voters; penalty.

A voter seeking to cast an absentee ballot may obtain a replacement absentee ballot subject to the following conditions: (i) the voter applied for an absentee ballot under subdivision 4 of § 24.2-700 because of a disability or illness; (ii) the application was approved and an absentee ballot mailed to the voter; and (iii) the voter *A person with a disability or illness who has applied for and has been sent an absentee ballot* who did not receive or has lost the absentee ballot on or before the Saturday before the

election *may obtain a replacement absentee ballot*. In such case, the voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day and designate, in writing, a representative to obtain a replacement absentee ballot on his behalf from the general registrar and to return the properly completed ballot as directed by the general registrar no later than the close of polls on the day of election for which the absentee ballot is valid. The representative shall be age ~~eighteen~~ 18 or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate. The voter and representative shall complete the form prescribed by the State Board to implement the provisions of this section. The form shall include a statement signed by the voter that he did not receive the ballot or has lost the ballot. Statements on the form shall be subject to felony penalties for making false statements pursuant to § 24.2-1016.

**§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is \_\_\_\_\_ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of \_\_\_\_\_ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter \_\_\_\_\_

Date \_\_\_\_\_

Signature of witness \_\_\_\_\_"

For elections held after January 1, 2004, instead of the envelope containing the above oath, *However*, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act *instead of the envelope containing the above oath*.

3. A properly addressed envelope for the return of the ballot to the general registrar by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed ballots for the election are available, the general registrar, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the general registrar. 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 to the applicant by mail, obtaining a certificate or other evidence of mailing.

If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision 2 of § 24.2-700 is a covered voter, as defined in § 24.2-452, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

When the statement prescribed in subdivision 2 has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

#### **§ 24.2-709. Ballot to be returned in manner prescribed by law.**

A. Any ballot returned to the office of the general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar before the closing of the polls. The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by an

absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 a covered voter, as defined in § 24.2-452, shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

C. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

**§ 24.2-1004. Illegal voting and registrations.**

A. Any person who wrongfully deposits a ballot in the ballot container or casts a vote on any voting equipment, is guilty of a Class 1 misdemeanor.

B. Any person who intentionally (i) votes more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (ii) procures, assists, or induces another to vote more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (iii) votes knowing that he is not qualified to vote where and when the vote is to be given, or (iv) procures, assists, or induces another to vote knowing that such person is not qualified to vote where and when the vote is to be given is guilty of a Class 6 felony.

C. Any person who intentionally (i) registers to vote at more than one residence address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to register to vote at more than one address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who, when registering to vote, changing the address at which he is registered, transferring his registration, or assisting another in registering, changing his address, or transferring his registration, provides the information required by § 24.2-418 on the applicant's place of last previous registration to vote.

D. Nothing in this section shall be construed to prohibit a person entitled to vote absentee under subdivision 2 of § 24.2-700 covered voter, as defined in § 24.2-452, from casting in the same election both a state ballot and a write-in absentee ballot that is processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.). If both ballots are received prior to the close of the polls on election day, the state ballot shall be counted.