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## SENATE BILL NO. 1038

Senate Amendments in [ ] - January 25, 2019

A *BILL to amend and reenact § 24.2-653 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 24.2-418.01 and 24.2-653.2, relating to voter registration; verification of social security numbers; provisional registration status.*

Patrons Prior to Engrossment—Senators Peake and Chafin

Referred to Committee on Privileges and Elections

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

**1. That § 24.2-653 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-418.01 and 24.2-653.2 as follows:**

**§ 24.2-418.01. Verification of social security numbers.**

A. Before registering any applicant, the general registrars shall verify that the name, date of birth, and social security number provided by the applicant on the voter registration application match the information on file with the Social Security Administration or other database approved by the State Board. If the information provided by the applicant matches the information on file with the Social Security Administration or other database and the applicant is otherwise qualified, the applicant shall be registered to vote.

B. If the information provided by the applicant does not match the information on file with the Social Security Administration or other database, but the applicant is otherwise qualified, the applicant shall be provisionally registered to vote. The general registrar shall send a notice by mail to the applicant at the address provided on the voter registration application, informing him of his provisional registration status. Such notice shall inform the applicant of the information on his application that did not match and shall provide the opportunity to correct the information or to present one of the following forms of identification: his valid Virginia driver's license, his valid United States passport, or any other photo identification issued by the Commonwealth, one of its political subdivisions, or the United States.

An applicant who corrects the information on his application or presents one of the forms of identification shall be registered to vote. An applicant who does not correct the information on his application or does not present one of the forms of identification shall remain provisionally registered to vote and shall be permitted to vote in accordance with the provisions of § 24.2-653.2.

C. On or before August 1 of each year, the general registrars shall verify that the name, date of birth, and social security number in the registration record of each registered voter in the registrar's jurisdiction match the information on file with the Social Security Administration or other database approved by the State Board. The provisions of § 24.2-429 shall govern the cancellation of the registration of any registered voter whose information does not match the information on file with the Social Security Administration or other database.

D. The State Board may approve the use of any government database to the extent required to enable each general registrar to carry out the provisions of this section and may promulgate rules for the use of such database. The Department shall provide access by the general registrars to the Social Security Administration database and any other database approved by the State Board and shall be required to enter into any agreement with any federal or state agency in order to provide such access.

**§ 24.2-653. Voter whose name does not appear on pollbook or who is marked as having voted; handling of provisional ballots; ballots cast after normal close of polls due to court order extending polling hours.**

A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or cannot state that the person is registered to vote, then such person shall be allowed to vote by printed ballot in the manner provided in this section. This procedure shall also apply when required by § 24.2-643 or, 24.2-651.1, or 24.2-653.2.

Such person shall be given a printed ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the Department of Elections, the identifying information required on the envelope, including the last four digits of his social security number, if any, full name including the maiden or any other prior legal name, date of birth, complete address, and signature. Such person shall be asked to present one of the forms of identification specified in subsection B of § 24.2-643. The officers of election shall note on the green envelope whether or not the voter has presented one of the specified forms of identification. The officers of election shall enter the appropriate information for the person in the precinct provisional ballots log in accordance with the instructions of the State Board but shall not enter a consecutive number for the voter on the pollbook

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59 nor otherwise mark his name as having voted. The officers of election shall provide an application for  
60 registration to the person offering to vote in the manner provided in this section.

61 The voter shall then, in the presence of an officer of election, but in a secret manner, mark the  
62 printed ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the  
63 ballot shall then promptly be placed in the ballot container by an officer of election.

64 An officer of election, by a written notice given to the voter, shall (i) inform him that a  
65 determination of his right to vote shall be made by the electoral board, (ii) advise the voter of the  
66 beginning time and place for the board's meeting and of the voter's right to be present at that meeting,  
67 and (iii) inform a voter voting provisionally when required by § 24.2-643 that he may submit a copy of  
68 one of the forms of identification specified in subsection B of § 24.2-643 to the electoral board by  
69 facsimile, electronic mail, in-person submission, or timely United States Postal Service or commercial  
70 mail delivery, to be received by the electoral board no later than noon on the third day after the  
71 election. At the meeting, the voter may request an extension of the determination of the provisional vote  
72 in order to provide information to prove that the voter is entitled to vote in the precinct pursuant to  
73 § 24.2-401. The electoral board shall have the authority to grant such extensions which it deems  
74 reasonable to determine the status of a provisional vote.

75 B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be  
76 sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes  
77 contained therein, and signed by the officers of election who counted them. All provisional votes  
78 envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such  
79 envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the  
80 electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

81 The electoral board shall meet on the day following the election and determine whether each person  
82 having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in  
83 which he offered the provisional vote. If the board is unable to determine the validity of all the  
84 provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot  
85 an extension as provided in subsection A, the meeting shall stand adjourned, not to exceed seven  
86 calendar days from the date of the election, until the board has determined the validity of all provisional  
87 ballots offered in the election.

88 One authorized representative of each political party or independent candidate in a general or special  
89 election or one authorized representative of each candidate in a primary election shall be permitted to  
90 remain in the room in which the determination is being made as an observer so long as he does not  
91 participate in the proceedings and does not impede the orderly conduct of the determination. Each  
92 authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each  
93 representative, who is not himself a candidate or party chairman, shall present to the electoral board a  
94 written statement designating him to be a representative of the party or candidate and signed by the  
95 county or city chairman of his political party, the independent candidate, or the primary candidate, as  
96 appropriate. If the county or city chairman is unavailable to sign such a written designation, such a  
97 designation may be made by the state or district chairman of the political party. However, no written  
98 designation made by a state or district chairman shall take precedence over a written designation made  
99 by the county or city chairman. Such statement, bearing the chairman's or candidate's original signature,  
100 may be photocopied and such photocopy shall be as valid as if the copy had been signed.

101 Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),  
102 attendance at meetings of the electoral board to determine the validity of provisional ballots shall be  
103 permitted only for the authorized representatives provided for in this subsection, for the persons whose  
104 provisional votes are being considered and their representative or legal counsel, and for appropriate staff  
105 and legal counsel for the electoral board.

106 If the electoral board determines that such person was not entitled to vote as a qualified voter in the  
107 precinct in which he offered the provisional vote, is unable to determine his right to vote, or has not  
108 been provided one of the forms of identification specified in subsection B of § 24.2-643, the envelope  
109 containing his ballot shall not be opened and his vote shall not be counted. The provisional vote shall be  
110 counted if (a) such person is entitled to vote in the precinct pursuant to § 24.2-401 or (b) the  
111 Department of Elections or the voter presents proof that indicates the voter submitted an application for  
112 registration to the Department of Motor Vehicles or other state-designated voter registration agency prior  
113 to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was  
114 qualified for registration based upon the application for registration submitted by the person pursuant to  
115 subsection A. The general registrar shall notify in writing pursuant to § 24.2-114 those persons found  
116 not properly registered or whose provisional vote was not counted.

117 If the electoral board determines that such person was entitled to vote, the name of the voter shall be  
118 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and  
119 the ballot placed in a ballot container without any inspection further than that provided for in  
120 § 24.2-646.

121 On completion of its determination, the electoral board shall proceed to count such ballots and certify  
122 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No  
123 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.  
124 However, any voter who cast a provisional ballot and is determined by the electoral board to have been  
125 entitled to vote shall have his name included on the list of persons who voted that is submitted to the  
126 Department of Elections pursuant to § 24.2-406.

127 The certification of the results of the count together with all ballots and envelopes, whether open or  
128 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit  
129 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

130 C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any  
131 ballots marked after the normal polling hours by persons who were not already in line at the time the  
132 polls would have closed, notwithstanding the court order, shall be treated as provisional ballots under  
133 this section. The officers of election shall mark the green envelope for each such provisional ballot to  
134 indicate that it was cast after normal polling hours due to the court order, and when preparing the  
135 materials to deliver to the registrar or electoral board, shall separate these provisional ballots from any  
136 provisional ballots used for any other reason. The electoral board shall treat these provisional ballots as  
137 provided in subsection B; however, the counted and uncounted provisional ballots marked after the  
138 normal polling hours shall be kept separate from all other ballots and recorded in a separate provisional  
139 ballots pollbook. The Department of Elections shall provide instructions to the electoral boards for the  
140 handling and counting of such provisional ballots pursuant to this section.

141 **§ 24.2-653.2. Voter with provisional registration status.**

142 *Any person who offers to vote and is listed in the pollbook as provisionally registered shall be*  
143 *permitted to vote by a provisional ballot in accordance with the provisions of § 24.2-653. Such ballot*  
144 *shall not be counted if the voter does not present to the local electoral board, no later than noon on the*  
145 *third day after the election, one of the following forms of identification: his valid Virginia driver's*  
146 *license, his valid United States passport, or any other photo identification issued by the Commonwealth,*  
147 *one of its political subdivisions, or the United States.*

148 **[2. That the provisions of this act shall become effective on July 1, 2021. ]**