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SENATE BILL NO. 1250

Senate Amendments in [] - February 1, 2019

A BILL to amend and reenact §§ 24.2-416.7, 24.2-424, and 24.2-706 of the Code of Virginia, relating to voter registration; absentee voting; prohibited changes to voter registration record.

Patron Prior to Engrossment—Senator Reeves

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-416.7, 24.2-424, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-416.7. Application for voter registration by electronic means.

A. Notwithstanding any other provision of law, a person who is qualified to register to vote may apply to register to vote by electronic means as authorized by the State Board by completing an electronic registration application.

B. Notwithstanding any other provision of law, a registered voter may satisfy the requirements of §§ 24.2-423 and 24.2-424 to notify the general registrar of a change of legal name or place of residence within the Commonwealth by electronic means as authorized by the State Board by completing an electronic registration application.

C. An electronic registration application completed pursuant to this article shall require that an applicant:

1. Provide the information as required under § 24.2-418;

2. Have a Virginia driver's license or special identification card issued by the Department of Motor Vehicles;

3. Provide a social security number and Department of Motor Vehicles customer identifier number that matches the applicant's record in the Department of Motor Vehicles records;

4. Attest to the truth of the information provided;

5. Sign the application in a manner consistent with the Uniform Electronic Transactions Act (§ 59.1-479 et seq.); and

6. Affirmatively authorize the Department of Elections and general registrar to use the applicant's signature obtained by the Department of Motor Vehicles for voter registration purposes.

D. In order for an individual to complete a transaction under this article, the general registrar shall verify that the Department of Motor Vehicles customer identifier number, date of birth, and social security number provided by the applicant match the information contained in the Department of Motor Vehicles records.

E. The Department of Motor Vehicles shall provide to the Department of Elections a digital copy of the applicant's signature on record with the Department of Motor Vehicles.

F. The Department of Elections shall transmit to the general registrar an applicant's completed voter registration application and digital signature not later than five business days after the date of receipt.

G. Each transaction taking place under this section shall be accompanied by the following statement featured prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT DURING THIS TRANSACTION CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

H. [~~Not~~ Any] registration transaction performed under this article by a registered voter who has applied for and has been sent or provided an absentee ballot shall be processed [], but shall not be put into effect] until after the election for which he was sent or provided an absentee ballot.

I. The Department of Elections may use additional security measures approved by the State Board to ensure the accuracy and integrity of registration transactions performed under this article.

§ 24.2-424. Change of registered voter's address within the Commonwealth.

voter registration; absentee voting; prohibited changes to voter registration record

A. Whenever a registered voter changes his place of residence within the Commonwealth, he shall promptly notify any general registrar of the address of his new residence. Such notice may be made in person, in writing, by return of the voter registration card noting the new address, or on a form approved by the State Board of Elections, which may be electronic. The notice in writing may be provided by mail or by facsimile and shall be signed by the voter unless he is physically unable to sign, in which case his own mark acknowledged by a witness shall be sufficient signature. Notice may be

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59 provided by electronic means as authorized by the State Board and signed by the voter in a manner
60 consistent with the provisions of § 24.2-416.7 and the Uniform Electronic Transactions Act (§ 59.1-479
61 et seq.). The fact that a voter provides an address on a candidate or referendum petition that differs from
62 the address for the voter on the voter registration system shall not be sufficient notice to change the
63 voter's registration address. Any statements made by any voter applying for transfer are subject to felony
64 penalties for making a false statement pursuant to § 24.2-1016.

65 B. If the voter has moved within the same county or city, on receipt of the notification, the general
66 registrar for that county or city shall (i) enter the new address on the registration record; (ii) if satisfied
67 that the registered voter has moved into another precinct within the same county or city, transfer the
68 registration of the voter to that precinct; and (iii) send the voter confirmation documents. This transfer
69 may be entered in the registration records at any time the registration records are not closed pursuant to
70 § 24.2-416.

71 C. Any request for transfer or change of address within the Commonwealth delivered to any registrar
72 shall be forwarded to the general registrar for the city or county in the Commonwealth where the voter
73 now resides. When forwarding said notice, or upon request from the registrar for the county or city
74 where the voter now resides, the registrar for the county or city where the voter formerly resided shall
75 forward the original application for registration to the registrar for the voter's new locality.

76 D. Upon receipt of the voter's original registration application, and notice as specified in subsection
77 A of this section indicating the voter's current residence, the registrar for the county or city in which the
78 voter currently resides shall: (i) enter the new address on the registration record; (ii) if satisfied that the
79 registered voter has moved into a precinct within that county or city, transfer the registration of the
80 voter to that precinct; (iii) send the voter confirmation documents; and (iv) through the Virginia voter
81 registration system, notify the registrar of the locality where the voter formerly resided that the
82 registration has been transferred. This transfer may be entered in the registration records at any time the
83 registration records are not closed pursuant to § 24.2-416.

84 E. If the original registration application is no longer available to the registrar in the city or county
85 where the voter formerly resided, either of the following shall be sent to and accepted by the registrar in
86 the city or county where the voter now resides in lieu of such application: (i) an unsigned voter card (or
87 conversion card) used as the voter record upon the creation of the statewide voter registration system or
88 (ii) a replacement record provided by the Department to replace damaged files in the registrar's office. If
89 no other record is available, then the registrar of the voter's former locality shall provide written
90 notification to the registrar of the locality in which the voter now resides that none of the required
91 documents are available. In this instance only, the registrar of the locality in which the voter now
92 resides shall copy the voter's record from the Virginia voter registration system and use that record in
93 lieu of the original voter registration application. Any complete voter registration application on a form
94 previously authorized for use in Virginia shall be valid for the purposes of continuing or transferring a
95 voter's registration within the Commonwealth.

96 F. [~~Not A~~] request for transfer or change of address within the Commonwealth shall be processed
97 for a registered voter who has applied for and has been sent or provided an absentee ballot [, but such
98 transfer or change of address shall not be put into effect] until after the election for which he was sent
99 or provided an absentee ballot. The Department shall provide instructions to the general registrars for
100 determining whether a registered voter has been sent or provided an absentee ballot and notifying a
101 registered voter whose request for transfer or change of address has been placed on hold.

102 **§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

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

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

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

120 The general registrar shall note on each application received whether the applicant is or is not a

121 registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject
122 the application of any individual because of an error or omission on any record or paper relating to the
123 application, if such error or omission is not material in determining whether such individual is qualified
124 to vote absentee.

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

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

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

135 "Statement of Voter."

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

145 Signature of Voter _____

146 Date _____

147 Signature of witness _____"

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

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

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

156 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of
157 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter
158 votes in a federal election in the state, the printed instructions shall direct the voter to submit with his
159 ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank
160 statement, government check, paycheck or other government document that shows the name and address
161 of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of
162 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as
163 a provisional ballot under the provisions of § 24.2-653. The Department of Elections shall provide
164 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
165 subsection B of § 24.2-653 and this section.

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

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

171 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed
172 ballots for the election are available, the general registrar, on the determination of the qualifications of
173 the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and
174 no item shall be removed by the applicant from the office of the general registrar. On the request of the
175 applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant
176 offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 to the
177 applicant by mail, obtaining a certificate or other evidence of mailing.

178 If the applicant states as the reason for his absence on election day any of the reasons set forth in
179 subdivision 2 of § 24.2-700, the general registrar, at the time when the printed ballots for the election
180 are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in
181 the office of the general registrar the items as set forth in subdivisions 1 through 4 and, if necessary, an

182 application for registration. A certificate or other evidence of mailing shall not be required. If the
183 applicant requests that such items be sent by electronic transmission, the general registrar, at the time
184 when the printed ballots for the election are available but not later than the deadline set forth in
185 § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for
186 returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official
187 email address or fax number of the office of the general registrar published on the Department of
188 Elections website. The State Board of Elections may prescribe by regulation the format of the email
189 address used for transmitting ballots to eligible voters. A general registrar may also use electronic
190 transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be
191 returned to the general registrar as otherwise required by this chapter.

192 *Whenever a general registrar sends or provides an absentee ballot to a registered applicant, the*
193 *general registrar shall enroll the name and address of the applicant into the Virginia voter registration*
194 *system as having been sent or provided an absentee ballot in accordance with the instructions of the*
195 *Department for purposes of subsection H of § 24.2-416.7 or subsection F of § 24.2-424.*

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

198 The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this
199 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole
200 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur,
201 or (iii) the campaign committee or the appropriate district political party chairman of such candidate.
202 Any person who fails to discharge his duty as provided in this section through willful neglect of duty
203 and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of
204 § 24.2-1001.