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SENATE BILL NO. 859

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact §§ 24.2-705 and 24.2-705.1 of the Code of Virginia, relating to absentee voting; emergency absentee voting by and late applications for persons hospitalized; definition of hospital.

Patron—Ebbin

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

**1. That §§ 24.2-705 and 24.2-705.1 of the Code of Virginia are amended and reenacted as follows:
§ 24.2-705. Emergency applications and absentee ballots for persons incapacitated or hospitalized.**

Any person registered and otherwise qualified to vote who becomes incapacitated on or after the seventh day preceding an election may request at any time prior to 2:00 p.m. on the day preceding the election that an emergency absentee ballot application be delivered to him. A voter who becomes hospitalized on or after the fourteenth day preceding the election and who is unable, because of his condition, to request an absentee ballot earlier than the seventh day preceding the election may request at any time prior to 2:00 p.m. on the day before an election that an emergency absentee ballot be delivered to him in the hospital. For purposes of this section, "incapacitated" means hospitalized, ill and confined to his residence, bereaved by the death of a spouse, child, or parent, or otherwise incapacitated by an emergency which is found by the general registrar to justify providing an emergency ballot application; and "hospital" means a hospital as defined in § 32.1-123 or 37.2-100 and any comparable hospital in the District of Columbia or any state contiguous to Virginia.

On receipt of the request, the general registrar shall provide an emergency absentee ballot application to the incapacitated voter's designated representative who shall deliver the application to the voter. If the voter is hospitalized, the delivery shall be made to him at the hospital; and if the voter is otherwise incapacitated, the delivery shall be made to him at his current residence address as shown on the registration records. The representative shall be age eighteen 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 application shall be on a form prescribed by the State Board and shall require the applicant (i) to state the cause of his incapacity, (ii) to state that he is unable to be present at the polls on election day, and that he was either incapacitated on or after the seventh day preceding the election or hospitalized on or after the fourteenth day preceding the election and unable to request the application earlier than the seventh day preceding the election, (iii) to designate a representative to receive, deliver and return the ballot, and (iv) to provide other information required by law for an absentee ballot application.

If the voter is hospitalized, a hospital administrative official, a licensed physician attending the applicant, or provider as defined in § 37.2-403, shall certify on the form to the hospitalization of the applicant and the applicant's inability to be present at the polls on election day. If the voter is ill and confined to his residence, a licensed physician, provider as defined in § 37.2-403, or an accredited religious practitioner attending the applicant shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is bereaved, a licensed physician, an accredited religious practitioner, or a funeral service licensee (as defined in § 54.1-2800) shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is otherwise incapacitated as determined by the general registrar, the general registrar shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. The applicant shall sign the application and 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. His signature shall be witnessed by the designated representative who shall sign and return the completed application to the office of the general registrar no later than 5:00 p.m. on the day preceding the election. For the purposes of this section, "accredited religious practitioner" means a person who has been trained in spiritual healing or the other healing arts and has been so accredited by a formal religious order.

On receipt of the completed application and a determination of the qualification of the applicant to vote, the general registrar shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the incapacitated voter.

The incapacitated voter shall vote the absentee ballot as provided by law and mark it in the presence

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59 of the designated representative. The representative shall complete a statement, subject to felony
60 penalties for making false statements pursuant to § 24.2-1016, that (i) he is the representative of the
61 incapacitated voter; (ii) he personally delivered the ballot to the voter who applied for it; (iii) in his
62 presence, the voter marked the ballot, the ballot was placed in the envelope provided, the envelope was
63 sealed, and the statement on its reverse side was signed by the incapacitated voter; and (iv) the ballot
64 was returned, under seal, to the general registrar at the registrar's office.

65 The ballot shall be counted only if the ballot is received by the general registrar prior to the close of
66 polls, and the general registrar shall deliver the ballot to the officers of election at each appropriate
67 precinct pursuant to § 24.2-710.

68 **§ 24.2-705.1. Late applications and in-person absentee voting for business and medical**
69 **emergencies.**

70 Any person registered and otherwise qualified to vote who (i) becomes obligated after 12:00 noon on
71 the Saturday before an election to be absent from his county or city on election day for a purpose
72 pertaining to (i) his business, profession, or occupation, *or* (ii) *becomes aware after 12:00 noon on the*
73 *Saturday before an election that he will be unable to vote at his polling place on election day due to the*
74 *hospitalization of the applicant or a member of his immediate family, or (iii) the death of a member of*
75 *his immediate family, may apply for an absentee ballot and vote absentee in person pursuant to this*
76 *section and subject to the following conditions:*

77 1. The applicant applies in person for an absentee ballot on the Monday immediately preceding the
78 election, before 2:00 p.m., at the principal office of the registrar; and

79 2. The applicant signs a statement, which shall be deemed part of his absentee ballot application and
80 subject to felony penalties for making false statements pursuant to § 24.2-1016, that he (i) is required to
81 leave the county or city before the opening of the polls on election day for a purpose pertaining to (i)
82 his business, profession or occupation, *or* (ii) *will be unable to vote at his polling place on election day*
83 *due to the hospitalization of the applicant or a member of his immediate family, or (iii) the death of a*
84 *member of his immediate family, and that he did not have notice or knowledge of such required travel*
85 *or unavailability prior to 12:00 noon on the immediately preceding Saturday. "Immediate family" means*
86 *the children including adopted children, grandchildren, grandparents, parents, legal guardian, siblings,*
87 *whether of the whole or half blood, and spouse of the applicant.*

88 "Hospitalization" refers to confinement in a hospital as defined in § 32.1-123 or 37.2-100 and any
89 comparable hospital in the District of Columbia or any state contiguous to Virginia.