

22106029D

HOUSE BILL NO. 175

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections
on February 4, 2022)

(Patron Prior to Substitute—Delegate Bloxom)

A BILL to amend and reenact §§ 24.2-701, 24.2-703.1, 24.2-707, and 24.2-709 of the Code of Virginia, relating to absentee voting; annual absentee voter list; ballot requirements; return of absentee ballot.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-701, 24.2-703.1, 24.2-707, and 24.2-709 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-701. Application for absentee ballot.

A. The Department 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 Department 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 or 24.2-703.1, 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 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 elections.

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 completed only in the office of the general registrar and signed by the applicant in the presence of a registrar. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643, or if he is unable to present one of the specified forms of identification listed in that subsection, he shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be. An applicant who requires assistance in voting by reason of a physical disability or an inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 or does not sign this statement 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 § 24.2-653.01 and this section.

This paragraph shall apply in the case of any individual 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 he votes in a federal election in the state. At such election, such individual shall present (i) 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 in person but does not show one of the forms of identification specified in this paragraph shall be offered a provisional ballot under the provisions of § 24.2-653. The identification requirements of subsection B of § 24.2-643 and subsection A of § 24.2-653 shall not apply to such voter at such election. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

2. Any other application may be made by mail, by electronic or telephonic transmission to a

HOUSE
SUBSTITUTE

HB175H1

60 facsimile device if one is available to the office of the general registrar or to the office of the
61 Department if a device is not available locally, or by other means. The application shall be on a form
62 furnished by the registrar or as specified in subdivision 3. The application shall be made to the
63 appropriate registrar no later than 5:00 p.m. on the eleventh day prior to the election in which the
64 applicant offers to vote.

65 3. The application of any covered voter, as defined in § 24.2-452, may be on a federal postcard
66 application, as defined in § 24.2-452. The federal postcard application may be accepted the later of (i)
67 12 months before an election or (ii) the day following any election held in the twelfth month prior to
68 the election in which the applicant is applying to vote.

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

70 1. The applicant's printed name and the last four digits of the applicant's social security number.
71 However, an applicant completing the application in person shall not be required to provide the last four
72 digits of his social security number;

73 2. A statement that he is registered in the county or city in which he offers to vote and his residence
74 address in such county or city. Any person temporarily residing outside the United States shall provide
75 the last date of residency at his Virginia residence address, if that residence is no longer available to
76 him. Any covered voter, as defined in § 24.2-452, who is not a registered voter may file the applications
77 to register and for a ballot simultaneously; and

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

85 D. An application shall not be required for any registered voter appearing in person to cast an
86 absentee ballot pursuant to § 24.2-701.1.

87 **§ 24.2-703.1. Annual absentee voter list.**

88 A. Any registered voter shall be eligible to file a special *annual* application to receive absentee
89 ballots for all elections in which he is eligible to vote *in a calendar year*. Such application shall be on a
90 form approved by the State Board *and shall require, at a minimum, the voter's printed name, birth date,*
91 *and the last four digits of his social security number.* The absentee ballots sent to a voter on the
92 ~~permanent~~ *annual* absentee voter list shall be sent to the address in the voter's registration record, except
93 as provided in subdivision C 1.

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

98 *The general registrar shall send to each voter enrolled on the annual absentee voter list a blank*
99 *application by December 15 for each ensuing calendar year, and upon completion thereof, the applicant*
100 *shall be eligible to receive ballots for all elections in which he is eligible to vote in that calendar year.*

101 C. The State Board shall prescribe the process by which a voter on the ~~permanent~~ *annual* absentee
102 voter list may:

103 1. Request that his absentee ballot for (i) a single election or (ii) a primary election and the
104 following general election be sent to an address other than the address on his voter registration record.

105 2. Request a primary ballot for a political party other than the one he specified on his application for
106 ~~permanent~~ *annual* absentee voter status for a single primary election.

107 3. Change his political party selection for all succeeding primary elections.

108 D. A voter shall be removed from the ~~permanent~~ *annual* absentee voter list if (i) the voter requests
109 in writing to be removed from the list, (ii) the voter's registration is canceled pursuant to § 24.2-427,
110 (iii) the voter's registration is placed on inactive status pursuant to § 24.2-428 or 24.2-428.1, or (iv) the
111 voter moves to a different address not in the same county or city of his registration, *and no ballot for*
112 *any subsequent election shall be sent to the voter until a new application is filed and accepted.*

113 **§ 24.2-707. How ballots marked and returned.**

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

118 After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope
119 provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of
120 the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot
121 envelope and any required assistance form within the envelope directed to the general registrar, and (e)

122 seal that envelope. *A voter's failure to have a witness sign the absentee ballot envelope shall be*
 123 *considered a material omission and shall render his ballot void.* A voter's failure to provide in the
 124 statement on the back of the envelope his full middle name or his middle initial shall not be a material
 125 omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the
 126 envelope his full first and last name. A voter's failure to provide the date, or any part of the date,
 127 including the year, on which he signed the statement printed on the back of the envelope shall not be
 128 considered a material omission and shall not render his ballot void. ~~A voter's failure to have a witness~~
 129 ~~sign the absentee ballot return envelope for any election held during a declared state of emergency~~
 130 ~~related to a communicable disease of public health threat shall not be considered a material omission~~
 131 ~~and shall not render his ballot void.~~

132 B. A mailed absentee ballot shall be returned (i) by mail to the office of the general registrar, (ii) by
 133 the voter in person to the general registrar, or (iii) to a drop-off location established pursuant to
 134 § 24.2-707.1. For purposes of this subsection, "mail" includes a delivery by a commercial delivery
 135 service but does not include delivery by a personal courier service or other individual except as provided
 136 by §§ 24.2-703.2 and 24.2-705.

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

138 **§ 24.2-709. Ballot to be returned in manner prescribed by law.**

139 A. Any ballot returned to the office of the general registrar or to a drop-off location in any manner
 140 except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar or
 141 to a drop-off location before the closing of the polls. Any voter who is in line to return an absentee
 142 ballot at a drop-off location by 7:00 p.m. on the day of the election shall be permitted to deposit his
 143 absentee ballot. The registrar receiving the ballot shall (i) seal the ballot in an envelope with the
 144 statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the
 145 date, time, and manner of delivery. No returned absentee ballot shall be deemed void because (a) the
 146 inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope
 147 containing the ballot envelope is sealed or (b) it is not returned sealed in the outside envelope so long as
 148 it is returned sealed in the inner envelope.

149 B. Notwithstanding the provisions of subsection A, any absentee ballot (i) returned to the general
 150 registrar after the closing of the polls on election day but before noon on the third day after the election
 151 and (ii) postmarked on or before the *Saturday immediately preceding the* date of the election shall be
 152 counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. For
 153 purposes of this subsection, a postmark shall include any other official indicia of confirmation of
 154 mailing by the United States Postal Service or other postal or delivery service.

155 C. Notwithstanding the provisions of subsection A, any absentee ballot (i) received after the close of
 156 the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State
 157 Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but
 158 not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by a
 159 covered voter, as defined in § 24.2-452, shall be counted pursuant to the procedures set forth in this
 160 chapter if the voter is found entitled to vote. The electoral board shall prepare an amended certified
 161 abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board
 162 by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract
 163 to the general registrar to be available for inspection when his office is open for business.

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