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HOUSE BILL NO. 1534

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Privileges and Elections
on February 9, 2024)

(Patrons Prior to Substitute—Delegates Sickles and Simon [HB 185])

A BILL to amend and reenact §§ 24.2-431, 24.2-504, 24.2-525, 24.2-652, and 24.2-706 of the Code of Virginia and to repeal §§ 24.2-429, 24.2-430, 24.2-432, 24.2-433, and 24.2-651 of the Code of Virginia, relating to elections; challenges to voter or voter's registration; challenges to candidate qualifications or eligibility.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-431, 24.2-504, 24.2-525, 24.2-652, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-431. Petition to court objecting to registration; notice to person objected to; decision of court; right of appeal.

In addition to challenging a voter's registration before the general registrar, any A. Any three qualified voters may file with the circuit court of the county or city in which they are registered, a petition stating their objections to the registration of any person whose name is on the registration records for their county or city. However, no petition may be filed if the only objection raised is based on removal of residence from the precinct. In no event shall a petition be filed within 60 days of a primary or general election held in such county or city.

B. Fifteen days' notice shall be given by the petitioners to any person whose registration is objected to, and the court shall summarily proceed to determine the right of the person to registration. The determination shall be without the necessity of formal pleadings and in preference to all other matters on the docket. An order of the court concerning registration of the voter shall not be limited by the provisions of § 24.2-416 requiring the registration records to be closed.

C. From the judgment of the court, an appeal shall lie, as a matter of right, to the Court of Appeals. The appeal shall be placed on the privileged docket and be heard by the next available panel of the court.

§ 24.2-504. Persons entitled to have name printed on ballot; challenges.

A. Only a person fulfilling all the requirements of a candidate shall have his name printed on the ballot for the election. No person shall have his name printed on the ballot for more than one office at any one election. However, a candidate for federal or statewide office, or a candidate for an office being filled in a special election, may have his name printed on the ballot for two offices at an election.

B. Any challenge to a person's eligibility to have his name printed on the ballot on the basis that such person failed to meet all qualifications or fulfill all requirements for candidacy shall be made at least 60 days before the day on which the election is to be held, except that a candidate who was nominated at a primary election shall not be subject to a challenge on the basis of facts that were present prior to the primary election and could have been raised in a challenge to such candidate's eligibility for the primary ballot. Any such challenge shall be made by filing a petition with the Circuit Court of the City of Richmond, which shall have jurisdiction over any such proceeding.

§ 24.2-525. Persons entitled to have name printed on ballot; challenges.

A. Only a person meeting all the qualifications and fulfilling all the requirements of a candidate, and who has complied with the rules and regulations of his party, shall have his name printed on the ballot provided for the primary election. A person who does not file either or both written statements required by § 24.2-503 by the relevant deadline, or the end of the extension period if an extension has been granted pursuant to that section, shall not have his name printed on the ballot provided for the primary election.

B. No person shall have his name printed on the ballot for more than one office at any one primary election. However, a candidate for federal or statewide office, or a candidate for an office being filled in a special election, may have his name printed on the ballot for two offices at a primary election.

C. Any challenge to a person's eligibility to have his name printed on the ballot on the basis that such person failed to meet all qualifications or fulfill all requirements for candidacy shall be made at least 60 days before the date of the primary election. Any such challenge shall be made by filing a petition with the Circuit Court of the City of Richmond, which shall have jurisdiction over any such proceeding.

§ 24.2-652. Voter whose name erroneously omitted from pollbook; provisional ballots.

A. When a person offers to vote and his name does not appear on the pollbook, the officers of election shall permit him to vote only if all of the following conditions are met:

1. An officer of election is informed by the general registrar that the voter is registered to vote, that

60 his registration has not been cancelled, and that his name is erroneously omitted from the pollbook.

61 2. The voter signs a statement, subject to felony penalties for false statements pursuant to
62 § 24.2-1016, that he is a qualified and registered voter of that precinct, a resident of that precinct, and
63 his registration is not subject to cancellation pursuant to §§ 24.2-430, § 24.2-431, and 24.2-432; and he
64 provides, subject to such penalties, all the information required to identify himself including the last four
65 digits of his social security number, if any, full name including the maiden or any other prior legal
66 name, birthdate, and complete address.

67 3. The officer of election enters the identifying information for the voter on the pollbook.

68 When the voter has signed the statement and is permitted to vote, the officers of election shall mark
69 his name on the pollbook with the next consecutive number from the voter count form, or shall enter
70 that the voter has voted if the pollbook is in electronic form, and shall indicate on the pollbook that he
71 has signed the required statement in accordance with the instructions of the State Board.

72 B. If the general registrar is not available or cannot state that the person is registered to vote, such
73 person shall be allowed to vote by provisional ballot pursuant to § 24.2-653. The officers of election
74 shall provide to him an application for registration. The State Board of Elections shall provide
75 instructions to the electoral boards for the handling and counting of such provisional ballots.

76 **§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

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

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

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

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

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

105 1. An envelope containing the folded ballot, sealed and marked "Ballot within."

106 2. An envelope for resealing the marked ballot, on which envelope is printed the following:

107 "Statement of Voter."

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

117 Signature of Voter _____

118 Last four digits of voter's social security number _____

119 Voter's birth year _____

120 Date _____

121 For elections held after January 1, 2004, instead of the envelope containing the above oath, 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.

For purposes of properly completing this statement, the unique identifier assigned to the voter in the voter registration system pursuant to subdivision A 1 of § 24.2-404 shall be accepted in place of the last four digits of the voter's social security number for those voters whose registration includes a statement of affirmation that they have never been issued a social security number.

~~When this statement has been properly completed and signed by the registered voter, his ballot shall not be subject to challenge pursuant to § 24.2-651.~~

3. An envelope, properly addressed and postage prepaid, for the return of the ballot to the general registrar by mail or by the applicant in person, or to a drop-off location.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot. Such instructions shall include information on the sites of all drop-off locations in the county or city. Whenever there is a proposed constitutional amendment or a statewide referendum to be voted on by the voters, these instructions shall also include the website address where the explanation of the proposed amendment prepared pursuant to § 30-19.9 or the information about the referendum prepared pursuant to § 30-19.10 is posted on the Department's website.

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 § 24.2-653.01. 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.

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.

D. The general registrar may contract with a third party for the printing, assembly, and mailing of the items set forth in subsection C. The general registrar shall provide to the contractor in a timely manner the names, addresses, precincts, and ballot styles of voters requesting an absentee ballot by mail. The vendor shall provide to the general registrar a report of the voters to whom the absentee ballot materials have been sent.

E. If the applicant completes his application in person under § 24.2-701 at a time when the printed ballots for the election are available, he may request that the general registrar send to him by mail the items set forth in subdivisions C 1 through 4, instead of casting the ballot in person. Such request shall be made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote, and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other evidence of mailing.

F. If the applicant 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 C 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.

G. 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

183 and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of
184 § 24.2-1001.
185 2. That §§ 24.2-429, 24.2-430, 24.2-432, 24.2-433, and 24.2-651 of the Code of Virginia are
186 repealed.