

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 24.2-404, 24.2-404.4, 24.2-431, and 24.2-652 of the Code of Virginia and to repeal §§ 24.2-429, 24.2-430, 24.2-432, and 24.2-433 of the Code of Virginia, relating to voter registration; list maintenance data standards; challenges to a voter's registration.

[S 196]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-404, 24.2-404.4, 24.2-431, and 24.2-652 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-404. Duties of Department of Elections.

A. The Department of Elections shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia voter registration system, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Department shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth. Such system shall automatically register a person who has preregistered pursuant to § 24.2-403.1 upon that person becoming eligible for registration under § 24.2-403 or reaching 18 years of age, whichever comes first. Such system shall also assign a unique identifier to each voter registered in the system.

2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.

3. Provide to each general registrar voter confirmation documents for newly registered voters, including voters who were automatically registered pursuant to subdivision 1, and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Department. The Department shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.

5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.

6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The Department shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the Department shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the Department shall provide a regional or statewide list of registered voters to the general registrar of the locality. The Department shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.

8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Department.

9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the Department in procuring and exchanging identification information for the purpose of maintaining the voter registration system. The Department may share any information that it receives from another agency of the Commonwealth with any Chief

57 Election Officer of another state for the maintenance of the voter registration system.

58 10. ~~Cooperate~~ *In accordance with the provisions of § 24.2-404.4, cooperate* with other states and
 59 jurisdictions to develop systems to compare voters, voter history, and voter registration lists to ensure
 60 the accuracy of the voter registration rolls, to identify voters whose addresses have changed, to prevent
 61 duplication of registration in more than one state or jurisdiction, and to determine eligibility of
 62 individuals to vote in Virginia.

63 11. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts
 64 and polling places, statements of election results by precinct, and any other items required of the
 65 Department by law. Receipts from such sales shall be credited to the Board for reimbursement of
 66 printing expenses.

67 B. The Department shall be authorized to provide for the production, distribution, and receipt of
 68 information and lists through the Virginia voter registration system by any appropriate means including,
 69 but not limited to, paper and electronic means. The Virginia Freedom of Information Act (§ 2.2-3700 et
 70 seq.) shall not apply to records about individuals maintained in this system.

71 C. The State Board shall institute procedures to ensure that each requirement of this section is
 72 fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail
 73 notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is
 74 cancelled.

75 D. The State Board shall promulgate rules and regulations to ensure the uniform application of the
 76 law for determining a person's residence.

77 E. The Department shall apply to participate in the Systematic Alien Verification for Entitlements
 78 Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S.
 79 Department of Homeland Security for the purposes of verifying that voters listed in the Virginia voter
 80 registration system are United States citizens. Upon approval of the application, the Department shall
 81 enter into any required memorandum of agreement with U.S. Citizenship and Immigration Services. The
 82 State Board shall promulgate rules and regulations governing the use of the immigration status and
 83 citizenship status information received from the SAVE Program.

84 F. The Department shall report annually by ~~October~~ *August* 1 for the preceding 12 months ending
 85 ~~August 31~~ *June 30* to the Committees on Privileges and Elections on each of its activities undertaken to
 86 maintain the Virginia voter registration system and the results of those activities. The Department's
 87 report shall be governed by the provisions of § 2.2-608 and shall encompass activities undertaken
 88 pursuant to subdivisions A 9 and 10 and subsection E and pursuant to §§ 24.2-404.3, 24.2-404.4,
 89 24.2-408, 24.2-409, 24.2-409.1, 24.2-410, 24.2-410.1, 24.2-427, and 24.2-428. This report shall contain
 90 the methodology used in gathering and analyzing the data. The Commissioner of Elections shall certify
 91 that the data included in the report is accurate and reliable.

92 *G. The Department shall conduct an annual review of all sources of data utilized for list*
 93 *maintenance activities in the preceding 12-month period for the purpose of determining the validity,*
 94 *completeness, accuracy, and reliability of the data received from each source. The results of such review*
 95 *shall be included in the Department's report required pursuant to subsection F.*

96 **§ 24.2-404.4. Exchange of registered voter lists with other states.**

97 A. Pursuant to its authority under subsection A of § 24.2-405 and subsections B and C of § 24.2-406,
 98 ~~the~~ *The* Department of Elections shall (i) request voter registration information and lists of persons
 99 voting at primaries and elections, if available, from the states bordering the Commonwealth and (ii)
 100 *utilize data regarding voter registration and lists of persons voting at primaries and elections received*
 101 *through list comparisons with other states in order to identify duplicate registrations, voters who no*
 102 *longer reside in the Commonwealth, and other persons who are no longer entitled to be registered in*
 103 *order as part of its duty to maintain the overall accuracy of the voter registration system.*

104 B. Pursuant to its authority under subdivision A 10 of § 24.2-404, ~~the~~ *The* Department of Elections shall
 105 *utilize data regarding voter registration and lists of persons voting at primaries and elections received*
 106 *through list comparisons with other states to identify duplicate registrations, voters who no longer reside*
 107 *in the Commonwealth, and other persons who are no longer entitled to be registered in order to maintain*
 108 *the overall accuracy of the voter registration system.*

109 C. The Department shall compare the data received pursuant to subsections A and B *subsection A*
 110 with the state voter registration list and initiate list maintenance procedures under applicable state and
 111 federal law. The Department shall include in its report to the House and Senate Committees on
 112 Privileges and Elections, required by subsection F of § 24.2-404, the progress of activities conducted
 113 under this section, including the number of duplicate registrations found to exist and the procedures that
 114 the Department and general registrars are following to eliminate duplicate registrations from the Virginia
 115 registered voter lists.

116 *C. The Department shall not utilize any data received pursuant to subsection A for list maintenance*
 117 *purposes when such data file does not include a unique identifier for each individual whose information*

is contained in the data file. For purposes of this subsection, a unique identifier means an individual's full social security number or Virginia Department of Motor Vehicles customer identifier number, or any data field or combination of data fields that can be reliably linked to a single individual.

§ 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.

B. Fifteen days' notice shall be given by the petitioners to any person whose registration is objected to pursuant to subsection A, 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.

§ 24.2-652. 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 his registration has not been cancelled, and that his name is erroneously omitted from the pollbook.

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

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

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

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

2. That §§ 24.2-429, 24.2-430, 24.2-432, and 24.2-433 of the Code of Virginia are repealed.