

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 197

*An Act to amend and reenact §§ 24.2-659, 24.2-668, and 24.2-670 of the Code of Virginia, relating to disposition and securing of election materials following election.*

[S 1103]

Approved March 14, 1995

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-659, 24.2-668 and 24.2-670 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-659. Locking voting and counting devices after election and delivering keys to clerk; printed returns as evidence.

A. After the officers of election lock and seal each voting and counting device, the equipment keys shall be enclosed in an envelope which shall be sealed and have endorsed thereon a certificate of an officer of election stating the election precinct, the number of each device, the number on the seal, and the number of the protective counter, if one, on the device. The sealed envelope shall be delivered by one of the officers of the election to the clerk of the circuit court where the election was held. The custodians of the voting equipment shall enclose and seal in an envelope, properly endorsed, all other keys to all voting equipment in their ~~jurisdiction~~ *jurisdictions* and deliver the envelope to the clerk of the circuit court by noon on the day following the election.

The voting and counting devices shall remain locked and sealed for the period of fifteen days after the results of the election have been ascertained and, if any contest or recount is pending thereafter, until it has been concluded. The devices shall be opened and all data examined only (i) on the order of a court of competent jurisdiction or (ii) on the request of an authorized representative of the State Board or the electoral board at the direction of the State Board in order to ensure the accuracy of the returns.

When recounts occur in precincts using mechanical or direct electronic voting devices with printed return sheets, the printed return sheets delivered to the clerk may be used as the official evidence of the results.

When the required time has expired, the clerk of the circuit court shall return all voting equipment keys to the electoral board.

B. *The local electoral board may direct that the officers of election and custodians, in lieu of conveying the sealed equipment keys to the clerk of the circuit court as provided in subsection A of this section, shall convey them to the principal office of the general registrar on the night of the election. The general registrar shall secure and retain the sealed equipment keys in his office and shall convey them to the clerk of the court by noon of the day following the election.*

§ 24.2-668. Pollbooks, statements of results, and ballots to be sealed and delivered to clerk.

A. After ascertaining the results and before adjourning, the officers shall put the pollbooks, the duplicate statements of results, and any printed inspection and return sheets in the envelopes provided by the State Board. The officers shall seal the envelopes and direct them to the clerk of the circuit court for the county or city. The pollbooks, statements, and sheets thus sealed and directed, the sealed counted ballots envelope or container, and the unused, defaced, spoiled and set aside ballots properly accounted for, packaged and sealed, shall be conveyed by one of the officers to be determined by lot, if they cannot otherwise agree, to the clerk of court by noon on the day following the election.

The clerk shall retain custody of the pollbooks until the time has expired for initiating a recount, contest, or other proceeding in which the pollbooks may be needed as evidence and there is no proceeding pending. After that time the clerk shall deliver the pollbooks to the general registrar who shall preserve them for five years from the date of the election. The clerk shall retain the statement of results and any printed inspection and return sheets for two years and may then destroy them.

B. *The local electoral board may direct that the officers of election, in lieu of conveying the materials to the clerk of the circuit court as provided in subsection A of this section, shall convey the materials to the principal office of the general registrar on the night of the election. The general registrar shall secure and retain the materials in his office and shall convey them to the clerk of the court by noon of the day following the election.*

§ 24.2-670. Clerk to send for books and ballots if not delivered by officers.

If the officers of election fail to deliver the materials to the clerk of the circuit court, *or to the principal office of the general registrar*, as required by § 24.2-668 before the time for the electoral board to meet and open the returns, the clerk of the circuit court shall dispatch, to obtain such returns, a law-enforcement officer, who shall be subject to the same penalties and entitled to the same compensation as an officer of election for such service.