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HOUSE BILL NO. 421

Offered January 17, 1996

A BILL to amend and reenact § 24.2-705 of the Code of Virginia, relating to emergency absentee applications and ballots.

Patrons—Parrish, Brickley, Dudley, Marshall and Rollison; Senators: Barry and Colgan

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-705 of the Code of Virginia is 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 ~~hospitalized~~ *incapacitated* on or after the fifth day preceding an election may request at any time prior to noon on the day preceding the election that an emergency absentee ballot application be delivered to him ~~in the hospital~~. 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 fifth day preceding the election may request at any time prior to noon 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 electoral board to justify providing an emergency ballot application; and "hospital" means a hospital as defined in § 32.1-123 and any comparable hospital in the District of Columbia or any state contiguous to Virginia.*

On receipt of the request, the electoral board shall provide an emergency absentee ballot application to the ~~hospitalized~~ *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 ~~hospitalized~~ *incapacitated* on or after the fifth day preceding the election or hospitalized on or after the fourteenth day preceding the election and unable to request the application earlier than the fifth day preceding the election, ~~(ii)~~ (iii) to designate a representative to receive, deliver and return the ballot, and ~~(iii)~~ (iv) to provide other information required by law for an absentee ballot application.

A If the voter is hospitalized, a hospital administrative official or a licensed physician attending the applicant 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 or an accredited religious practitioner (as defined in § 24.2-421) 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 (as defined in § 24.2-421), 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 electoral board, the secretary of the electoral board 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.

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

The ~~hospitalized~~ *incapacitated* voter shall vote the absentee ballot as provided by law and mark it in the presence of the designated representative. The representative shall complete a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) he is the representative of

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60 the ~~hospitalized~~ *incapacitated* voter; (ii) he personally delivered the ballot to the voter who applied for
61 it; (iii) in his presence, the voter marked the ballot, the ballot was placed in the envelope provided, the
62 envelope was sealed, and the statement on its reverse side was signed by the ~~hospitalized~~ *incapacitated*
63 voter; and (iv) the ballot was returned, under seal, to the electoral board at the registrar's office.

64 The ballot shall be counted only if the ballot is received by the electoral board (i) prior to noon on
65 the day of the election in any county, city, or town which does not have a central absentee voter
66 election district or (ii) prior to the closing of the polls in any county, city, or town which has a central
67 absentee voter precinct.