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**SENATE BILL NO. 429**

Offered January 11, 2006

Prefiled January 11, 2006

A *BILL to amend and reenact §§ 2.2-106, 24.2-101, 24.2-102, 24.2-404.1, 24.2-411.2, 24.2-502, 24.2-644, 24.2-713, 24.2-927, 24.2-929, 24.2-930, and 37.2-1014 of the Code of Virginia, relating to elections and the State Board of Elections; providing for a Director of Elections.*

Patrons—Devolites Davis and O'Brien

Referred to Committee on Privileges and Elections

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

1. That §§ 2.2-106, 24.2-101, 24.2-102, 24.2-404.1, 24.2-411.2, 24.2-502, 24.2-644, 24.2-713, 24.2-927, 24.2-929, 24.2-930, and 37.2-1014 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-106. Appointment of agency heads.

Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

1. Executive Director of the Virginia Port Authority;
2. Director of the State Council of Higher Education for Virginia;
3. Executive Director of the Department of Game and Inland Fisheries;
4. Executive Director of the Jamestown-Yorktown Foundation;
5. Executive Director of the Motor Vehicle Dealer Board;
6. Librarian of Virginia;
7. Administrator of the Commonwealth's Attorneys' Services Council;
8. Executive Director of the Virginia Housing Development Authority;
9. Executive Director of the Board of Accountancy; and
10. Chief Information Officer of the Commonwealth; and
11. Director of Elections.

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

As part of the confirmation process for each administrative head and Secretary, the Secretary of the Commonwealth shall provide copies of the resumes and statements of economic interests filed pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and Elections. For appointments made before January 1, copies shall be provided to the chairs within 30 days of the appointment or by January 7 whichever time is earlier; and for appointments made after January 1 through the regular session of that year, copies shall be provided to the chairs within seven days of the appointment. Each appointee shall be available for interviews by the Committees on Privileges and Elections or other applicable standing committee. For the purposes of this section and § 2.2-107, there shall be a joint subcommittee of the House of Delegates and Senate Committees on Privileges and Elections consisting of five members of the House Committee and three members of the Senate Committee appointed by the respective chairs of the committees to review the resumes and statements of economic interests of gubernatorial appointees. The members of the House of Delegates shall be appointed in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to challenge by reason of a failure to comply with the provisions of this paragraph pertaining to the confirmation process.

For the purpose of this section, "agency" includes all administrative units established by law or by executive order that are not (i) arms of the legislative or judicial branches of government; (ii) institutions of higher education as classified under §§ 23-253.7, 22.1-346, 23-14, 23-252, and; (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation districts; and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

§ 24.2-101. Definitions.

As used in this title, unless the context requires a different meaning:

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a

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SB429

59 political party or who, by reason of receiving the nomination of a political party for election to an  
60 office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.), 9 (§ 24.2-900 et  
61 seq.), and 9.2 (§ 24.2-941 et seq.), "candidate" shall include any write-in candidate. However, no  
62 write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible  
63 to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of  
64 Chapters 9 (§ 24.2-900 et seq.) and 9.2 (§ 24.2-941 et seq.), "candidate" shall include any person who  
65 raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding  
66 federal offices, or one of its governmental units in a party nomination process or general, primary, or  
67 special election; and such person shall be considered a candidate until a final report is filed pursuant to  
68 Article 4 (§ 24.2-914 et seq.) of Chapter 9.

69 "Central absentee voter precinct" means a precinct established by a county or city pursuant to  
70 § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts  
71 within the county or city.

72 "Constitutional office" or "constitutional officer" means a county or city office or officer referred to  
73 in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the  
74 Commonwealth, sheriff, commissioner of the revenue, and treasurer.

75 "*Director*" means the *Director of Elections*.

76 "Election" means a general, primary, or special election.

77 "Election district" means the territory designated by proper authority or by law which is represented  
78 by an official elected by the people, including the Commonwealth, a congressional district, a General  
79 Assembly district, or a district for the election of an official of a county, city, town, or other  
80 governmental unit.

81 "Electoral board" or "local electoral board" means a board appointed pursuant to § 24.2-106 to  
82 administer elections for a county or city. The electoral board of the county in which a town or the  
83 greater part of a town is located shall administer the town's elections.

84 "General election" means an election held in the Commonwealth on the Tuesday after the first  
85 Monday in November or on the first Tuesday in May for the purpose of filling offices regularly  
86 scheduled by law to be filled at those times.

87 "Officer of election" means a person appointed by an electoral board pursuant to § 24.2-115 to serve  
88 at a polling place for any election.

89 "Party" or "political party" means an organization of citizens of the Commonwealth which, at either  
90 of the two preceding statewide general elections, received at least 10 percent of the total vote cast for  
91 any statewide office filled in that election. The organization shall have a state central committee and an  
92 office of elected state chairman which have been continually in existence for the six months preceding  
93 the filing of a nominee for any office.

94 "Polling place" means the one place provided for each precinct at which the qualified voters who are  
95 residents of the precinct may vote.

96 "Precinct" means the territory designated by the governing body of a county, city, or town to be  
97 served by one polling place.

98 "Primary" or "primary election" means an election held for the purpose of selecting a candidate to be  
99 the nominee of a political party for election to office.

100 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and  
101 who is (i) 18 years of age, (ii) a resident of the Commonwealth and of the precinct in which he offers  
102 to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified  
103 voter unless his civil rights have been restored by the Governor or other appropriate authority. No  
104 person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as  
105 provided by law.

106 "Qualified voter in a town" means a person who is a resident within the corporate boundaries of the  
107 town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified  
108 voter.

109 "Referendum" means any election held pursuant to law to submit a question to the voters for  
110 approval or rejection.

111 "Registered voter" means any person who is maintained on the Virginia voter registration system. All  
112 registered voters shall be maintained on the Virginia voter registration system with active status unless  
113 assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For  
114 purposes of applying the precinct size requirements of § 24.2-307, calculating election machine  
115 requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election  
116 district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306,  
117 and determining the number of signatures required for candidate and voter petitions, "registered voter"  
118 shall include only persons maintained on the Virginia voter registration system with active status.

119 "Registration records" means all official records concerning the registration of qualified voters and  
120 shall include all records, lists, and files, whether maintained in books, on cards, on automated data

bases, or by any other legally permitted record-keeping method.

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.

"Special election" means any election that is held pursuant to law to fill a vacancy in office or to hold a referendum.

"State Board" or "Board" means the State Board of Elections.

"Virginia voter registration system" or "voter registration system" means the automated central record-keeping system for all voters registered within the Commonwealth that is maintained as provided in Article 2 (§ 24.2-404 et seq.) of Chapter 4.

§ 24.2-102. Appointment; terms; Director.

The State Board of Elections is continued and shall consist of ~~three~~ five members appointed by the Governor from the qualified voters of the Commonwealth, subject to confirmation by the General Assembly. In the appointment of the Board, representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. ~~Two~~ Three Board members shall be of the political party ~~which~~ that cast the highest number of votes for Governor at that election, ~~and two Board members shall be of the political party that cast the next highest number of votes for Governor at that election.~~ When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment ~~and; three~~ Board members shall be of the political party having the highest number of members in the General Assembly, ~~and two Board members shall be of the political party having the next highest number of members in the General Assembly.~~ Each political party entitled to an appointment may make and file recommendations with the Governor for the appointment. Its recommendations shall contain the names of at least ~~three~~ five qualified voters of the Commonwealth.

Three Board members shall serve four-year terms beginning February 1, ~~1995~~ 2007, and each fourth year thereafter. ~~Two Board members shall serve four-year terms beginning August 1, 2006, and each fourth year thereafter.~~ Vacancies shall be filled for the unexpired terms. No member, ~~except the Secretary,~~ shall be eligible for more than two successive four-year terms. A member appointed for an unexpired term may be appointed for the two succeeding four-year terms.

The Governor shall ~~designate one member of the Board as the Secretary, who shall receive the salary fixed by law. The Secretary may employ the personnel required to carry out the duties imposed by this title. The provisions of § 2.2-106 shall not apply to this section.~~

The Board shall appoint a Director of Elections who shall be the chief executive officer of the Board and act as its principal administrative officer. The appointment shall be subject to confirmation by the General Assembly. The appointment, if made during a session of the General Assembly, shall be subject to confirmation during the session, and otherwise shall be subject to confirmation at the next session of the General Assembly. No person whose confirmation is refused by the General Assembly shall continue as Director or be reappointed Director. The Director may be removed only by the Board for incompetence, misconduct, or other good cause and only with the concurrence of four members of the Board.

The Director shall be a qualified voter of the Commonwealth. He shall receive the salary fixed by law and shall employ the personnel required to carry out the duties of the Board imposed by this title. The personnel so employed shall be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.)

The Director shall not hold any other office, by election or appointment, or be a candidate for any office filled by voters in the Commonwealth, while serving as Director. The election or appointment of the Director to, or his candidacy for, any other office shall vacate his position as Director. The Board shall not appoint as Director (i) any person who is the spouse of a Board member or of a person who is a candidate for or holds an elective office filled by voters in the Commonwealth or (ii) any person, or the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of a Board member or of a person who is a candidate for or holds an elective office filled by voters in the Commonwealth. The Director shall tender his resignation to the Board on the date that any person, or the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of the Director files as a candidate for an elective office filled by voters in the Commonwealth.

The Director shall not serve as the chairman of a political party or other officer of a state, local, or district level political party committee and shall not serve as a paid or volunteer worker in the

182 campaign of a candidate for nomination or election to an office filled by election in whole or in part by  
183 the qualified voters of the Commonwealth. The restrictions of this paragraph shall also apply to paid  
184 employees under the supervision of the Director.

185 § 24.2-404.1. Director of Elections to serve as state coordinator for the administration of the National  
186 Voter Registration Act.

187 The ~~Secretary~~ Director of the ~~State Board~~ of Elections shall be the chief state election officer  
188 responsible for the coordination of state responsibilities under the National Voter Registration Act (42  
189 U.S.C. § 1973gg et seq.).

190 § 24.2-411.2. State-designated voter registration agencies.

191 A. The following agencies are designated as voter registration agencies in compliance with the  
192 National Voter Registration Act (42 U.S.C. § 1973gg et seq.) and shall provide voter registration  
193 opportunities at their state, regional, or local offices, depending upon the point of service:

194 1. Agencies whose primary function is to provide public assistance, including agencies that provide  
195 benefits under the Temporary Assistance for Needy Families program; Special Supplemental Food  
196 Program for Women, Infants, and Children; Medicaid program; or Food Stamps program;

197 2. Agencies whose primary function is to provide state-funded programs primarily engaged in  
198 providing services to persons with disabilities;

199 3. Armed Forces recruitment offices; and

200 4. The regional offices of the Department of Game and Inland Fisheries and the offices of the  
201 Virginia Employment Commission in the Northern Virginia Planning District 8.

202 B. The ~~Secretary of the State Board~~ Director of Elections, with the assistance of the Office of the  
203 Attorney General, shall compile and maintain a list of the specific agencies covered by subdivisions A 1  
204 and A 2 that, in the legal opinion of the Attorney General, must be designated to meet the requirements  
205 of the National Voter Registration Act. The ~~Secretary of the State Board~~ Director of Elections shall  
206 notify each agency of its designation and thereafter notify any agency added to or deleted from the list.

207 C. At each voter registration agency, the following services shall be made available on the premises  
208 of the agency:

209 1. Distribution of mail voter registration forms provided by the State Board of Elections;

210 2. Assistance to applicants in completing voter registration application forms, unless the applicant  
211 refuses assistance; and

212 3. Receipt of completed voter registration application forms.

213 D. A voter registration agency, which provides service or assistance in conducting voter registration,  
214 shall make the following services available on the premises of the agency:

215 1. Distribution with each application for its service or assistance, or upon admission to a facility or  
216 program, and with each recertification, readmission, renewal, or change of address form, of a voter  
217 registration application prescribed by the State Board of Elections that complies with the requirements of  
218 the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).

219 2. Provision, as part of the voter registration process, of a form that includes:

220 a. The question: "If you are not registered to vote where you live now, would you like to apply to  
221 register to vote here today?"

222 b. If the agency provides public assistance, the statement: "Applying to register or declining to  
223 register to vote will not affect the amount of assistance that you will be provided by this agency."

224 c. Boxes for the applicant to check to indicate whether the applicant would like to register, declines  
225 to register to vote, or is already registered (failure to check any box being deemed to constitute a  
226 declination to register for purposes of subdivision 2 a), together with the statement (in close proximity  
227 to the boxes and in prominent type): "IF YOU DO NOT CHECK ANY BOX, YOU WILL BE  
228 CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME."

229 d. The statement: "If you would like help in filling out the voter registration application form, we  
230 will help you. The decision whether to seek help or accept help is yours. You may fill out the  
231 application form in private."

232 e. The statement: "If you believe that someone has interfered with your right to register or to decline  
233 to register to vote, or your right to privacy in deciding whether to register or in applying to register to  
234 vote, you may file a complaint with the State Board of Elections." The statement shall include the  
235 address and telephone number of the State Board.

236 f. The following statement accompanying the form which features prominently in boldface capital  
237 letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS  
238 FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER  
239 VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN  
240 PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

241 3. Provision to each applicant who does not decline to register to vote of the same degree of  
242 assistance with regard to the completion of the voter registration application as is provided by the office  
243 with regard to the completion of its own applications, unless the applicant refuses assistance.

E. If a voter registration agency designated under subsection A of this section provides services to a person with a disability at the person's home, the agency shall provide the voter registration services as provided for in this section.

F. A person who provides services at a designated voter registration agency shall not:

1. Seek to influence an applicant's political preference;
2. Display any material indicating the person's political preference or party allegiance;
3. Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits; or

4. Disclose, except as authorized by law for official use, the social security number of any applicant for voter registration.

Any person who is aggrieved by a violation of this subsection may provide written notice of the violation to the State Board of Elections. The Board shall be authorized to cooperate with the agency to resolve the alleged violation. Nothing contained in this subsection shall prohibit an aggrieved person from filing a complaint in accordance with § 24.2-1019 against a person who commits any election law offense enumerated in §§ 24.2-1000 through 24.2-1016.

G. A completed voter registration application shall be transmitted as directed by the State Board of Elections not later than five business days after the date of receipt.

H. Each state-designated voter registration agency shall maintain such statistical records on the number of applications to register to vote as requested by the State Board of Elections.

§ 24.2-502. Statement of economic interests as requirement of candidacy.

It shall be a requirement of candidacy that a written statement of economic interests shall be filed by (i) a candidate for Governor, Lieutenant Governor, or Attorney General with the Secretary of the Commonwealth, (ii) a candidate for Senate or House of Delegates with the clerk of the appropriate house, (iii) a candidate for a constitutional office with the general registrar for the county or city, and (iv) a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, § 2.2-3115, or § 30-110.

The Secretary of the Commonwealth, the clerks of the Senate and House of Delegates, the general registrar, and the clerk of the local governing body shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests. The ~~Secretary of the State Board~~ *Director of Elections* shall notify the appropriate local electoral boards of the filings.

§ 24.2-644. Voting by paper ballot; voting for presidential electors; write-in votes.

A. The qualified voter shall take the official paper ballot and enter the voting booth. After entering the voting booth, the qualified voter shall mark immediately preceding the name of each candidate for whom he wishes to vote a check ( c e n t s m ) or a cross ( X or + ) or a line ( - ) in the square provided for such purpose, leaving unmarked the square preceding the name of each candidate for whom he does not wish to vote. Any ballot marked so that the intent of the voter is clear shall be counted.

B. The qualified voter at a presidential election shall mark the square preceding the names and party designation for his choice of candidates for President and Vice President. His ballot so marked shall be counted as if he had marked squares preceding the names of the individual electors affiliated with his choice for President and Vice President. The qualified voter at a presidential election may cast a write-in vote for President and Vice President as provided in subsections C and D of this section.

C. At all elections except primary elections it shall be lawful for any voter to vote for any person other than the listed candidates for the office by writing or hand printing the person's name on the official ballot. No check or other mark shall be required to cast a valid write-in vote. Write-in votes for President and Vice President shall be counted only for candidates who have filed a joint declaration of intent to be write-in candidates for the offices with the ~~Secretary of the State Board~~ *Director of Elections* not less than ~~ten~~ 10 days before the date of the presidential election. The declaration of intent shall be on a form prescribed by the State Board and shall include a list of presidential electors pledged to those candidates which equals the whole number of senators and representatives to which the Commonwealth at that time is entitled in the Congress of the United States. A write-in vote cast for candidates for President and Vice President, or for a candidate for President only, shall be counted for the individual electors listed on the declaration of intent as pledged to those candidates.

D. No write-in vote shall be counted unless the name is entered on the ballot in conformance with this section. No write-in vote shall be counted when it is apparent to the officers of election that a voter has voted for the same person for the same office more than one time. No write-in vote shall be counted

for an office for any person whose name appears on the ballot as a candidate for that office. If two or more persons are to be elected to the same office, a voter may vote for one or more persons whose names do appear on the ballot and one or more persons whose names do not appear on the ballot, provided that the total number of votes cast by him for that office does not exceed the number of persons to be elected to that office.

§ 24.2-713. Emergency authority of the Director of Elections.

The provisions of this section shall apply in the case of an emergency that will not allow sufficient time for the distribution and handling of absentee ballot applications and absentee ballots, in accordance with the procedures of this title, for qualified voters who are unable to vote in person because of the emergency. The ~~Secretary of the State Board~~ Director of Elections shall have the authority to designate alternative methods and procedures to handle such applications and ballots. Nothing in this section shall authorize the counting of any absentee ballot returned after the polls have closed. For purposes of this section, "an emergency" shall mean (i) any emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44, (ii) any emergency declared by the President of the United States or the governor of another state pursuant to law and confirmed by the Governor by the executive order as an emergency for the purposes of this section, or (iii) any public emergency that interferes with the electoral process or the opportunity for qualified voters to exercise their right to vote as determined by the ~~Secretary of the State Board~~ Director of Elections.

§ 24.2-927. Failure to report or filing of late report a violation; certain extensions; penalties.

A. Either the failure to file any report or the late filing of any report required by this article shall constitute a violation of this chapter subject to the penalties provided in §§ 24.2-929 and 24.2-930.

B. Notwithstanding any other provision of law, any candidate or treasurer required to file a report pursuant to this article shall be entitled to a 72-hour extension of the filing deadline if his spouse, parent, grandparent, child, grandchild or sibling died within the 72 hours before the deadline. The State Board or the local electoral board shall be authorized to grant an extension of the filing deadline for a period not to exceed five days for good cause shown by the filer and found by the Board or board sufficient to justify the granting of the extension.

C. The ~~Secretary~~ Director of Elections shall have additional authority to extend a deadline established in this article for filing reports in emergency situations that interfere with the timely filing of reports. The extension shall be limited in scope to the areas and times affected by the emergency. The provisions of this subsection shall be applicable only in the case of an emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States and confirmed by the Governor by executive order as an emergency for the purposes of this subsection.

D. The ~~Secretary~~ Director shall have additional authority to extend a deadline established in this article for filing reports for a reasonable period for a candidate who serves as his own campaign treasurer and who is a member of a uniformed service of the United States called to active duty during a reporting period.

§ 24.2-929. Penalties for violations of chapter.

A. Any person who violates, or aids, abets, or participates in the violation of, this chapter shall be subject to a civil penalty not to exceed \$100, unless a greater penalty is imposed as follows:

1. In the case of a failure to file or late filing of the statement of organization for a candidate required by § 24.2-904, for a committee required by § 24.2-908, or for a committee required by subsection F of § 24.2-910.1, there shall be a civil penalty not to exceed \$500.

2. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title that relates to the filing of an incomplete report due within the 120 days before or the 35 days after a November general election date, he shall be subject to a civil penalty not to exceed \$500.

3. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title, that relates to the failure to file a required report by the deadline specified in Article 4, he shall be assessed a civil penalty not to exceed \$500. In the case of a second or any subsequent such violation pertaining to one election cycle, he shall be assessed a civil penalty of \$1,000 for each such failure to file. The State Board shall assess the civil penalty imposed by this subdivision and shall notify the public through the Internet of the violation and identity of the violator.

4. In the case of a willful violation, he shall be guilty of a Class 1 misdemeanor.

In the case of a failure to file a required statement or report by the specified deadline, the length of the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State Board shall notify the public through the Internet of any violation based on the failure to file a required report by a candidate for statewide office or the General Assembly and the identity of the violator.

Upon notice of a violation of this chapter, the State Board or the general registrar or local electoral board, as appropriate, shall within 90 days of the report deadline notify the attorney for the Commonwealth who shall initiate civil proceedings to enforce the civil penalties and penalties assessed by the State Board or the local electoral board as provided herein. Any civil penalties collected pursuant

to action by the State Board shall be payable to the State Treasurer for deposit to the general fund; and any civil penalties collected pursuant to action by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit to its general fund. The statute of limitations applicable to a violation of this chapter is stated in § 19.2-8. There shall be a rebuttable presumption that the violation of this chapter was willful if the violation is based on a person's failure to file a report required by this chapter and his failure to file continues for more than 60 days following his actual receipt of written notice of his failure to file sent to him by certified mail, return receipt requested, by the State Board or an electoral board. Such notice shall be sent to the most recent mailing address provided by the candidate or committee.

B. Prior to assessing a penalty pursuant to this section for the filing of an incomplete report, the ~~Secretary of the State Board~~ *Director of Elections* or the general registrar or secretary of the local electoral board, as appropriate, shall notify, in writing, the candidate and treasurer, or person or political committee required to file a report with that board, that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed if the information required to complete the report is filed within 10 days of the date of mailing the written notice.

C. If the information required to complete the report is not filed within the 10-day period, the ~~Secretary of the State Board~~ *Director* or the general registrar or secretary of the local electoral board, as appropriate, shall then assess against the candidate and treasurer, who shall be jointly and severally liable, or person or political committee required to file a report, a civil penalty not to exceed \$500. The ~~Secretary of the State Board~~ *Director* or the general registrar or secretary of the local electoral board may grant an additional period for compliance, not to exceed two weeks, to permit the completion of a filed report for good cause shown and in response to a request filed within the 10-day period. However, no additional period shall be granted thereafter for compliance.

D. The additional periods for filing specified in subsections B and C shall apply only to the completion of a timely filed report and not to any case of a failure to file a required report by the deadline specified in this chapter. In the case of a failure to file a required report by the specified deadline, the length of the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State Board shall notify the public through the Internet of any violation based on the failure to file a required report by a candidate for statewide office or the General Assembly and the identity of the violator.

E. In the case of a failure to file the report of any large pre-election contribution required by § 24.2-919 or a large contribution report required by § 24.2-919.1, or the late or incomplete filing of either such report, there shall be a rebuttable presumption that the violation was willful. The provisions of subsections B and C of this section shall not apply to reports required by § 24.2-919, 24.2-919.1 or subsection D of § 24.2-923.

F. In the case of any other violation of this title that is to be enforced under this section, the electoral board for the locality in which the violation occurred, if the violation was by or on behalf of a candidate for local office or to influence a local ballot issue, or the State Board if the violation was by or on behalf of a candidate for any other office or to influence any other ballot issue, shall determine whether a violation was committed and assess the appropriate civil penalty, if any. If it appears that a criminal violation has occurred, the electoral board or State Board shall not assess a penalty but shall forward the complaint to the appropriate attorney for the Commonwealth.

G. The State Board shall determine the schedule of fines required to be followed by its staff and local electoral boards in assessing penalties under this section. No election official or staff may waive or reduce such fines, except as provided above.

§ 24.2-930. Civil penalties for late and incomplete filings for statewide campaigns.

A. In addition to the penalties provided in § 24.2-929, any candidate for Governor, Lieutenant Governor, or Attorney General, and his campaign treasurer, who fail to file any report required in § 24.2-916 in a timely manner or file an incomplete report may be assessed a civil penalty by the ~~Secretary of the State Board~~ *Director of Elections* pursuant to this section.

B. Prior to assessing a penalty pursuant to this section, the ~~Secretary~~ *Director* shall notify the candidate and treasurer in writing that a report has not been filed or that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed pursuant to this section if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.

C. If the report or information required to complete the report is not filed within the seven-day period, the ~~Secretary~~ *Director* shall assess against the candidate and treasurer, who shall be jointly and severally liable, a civil penalty of \$500 for each day that the violation continues on and after the eighth day following the date of mailing the written notice. The ~~Secretary~~ *Director* may grant an additional period for compliance, not to exceed two weeks, for good cause shown and in response to a request filed within the seven-day period. However, no additional period shall be granted for compliance with

428 the requirement under subdivision 8 of § 24.2-916 to file a report not later than the eighth day before  
429 the election. The ~~Secretary~~ *Director* shall notify the public through the Internet of the violation and  
430 identity of the violator.

431 D. If requested by the ~~Secretary~~ *Director*, the attorney for the Commonwealth of the City of  
432 Richmond shall assist the ~~Secretary~~ *Director* in collecting the civil penalty.

433 E. Any candidate or treasurer aggrieved by the assessment shall have a right to the direct review of  
434 the assessment by a court of competent jurisdiction as provided in the Administrative Process Act  
435 (§ 2.2-4000 et seq.). The provisions of the Act shall not apply, however, to the assessment of civil  
436 penalties by the ~~Secretary~~ *Director* pursuant to this section.

437 F. Civil penalties collected pursuant to this section shall be payable to the State Treasurer for deposit  
438 to the general fund.

439 § 37.2-1014. Clerk to index findings of incapacity or restoration; notice to Commissioner,  
440 commissioner of accounts, Director of Elections, and CCRE.

441 A. A copy of the findings of the court, if the person is found to be incapacitated or restored to  
442 capacity, shall be filed by the judge with the clerk of the circuit court. The clerk shall properly index  
443 the findings in the index to deed books by reference to the order book and page whereon the order is  
444 spread and shall immediately notify the Commissioner in accordance with § 37.2-1029, the  
445 commissioner of accounts in order to ensure compliance by a conservator with the duties imposed  
446 pursuant to §§ 37.2-1022 through 37.2-1024 and § 37.2-1027, and the ~~Secretary of the State Board~~  
447 *Director* of Elections with the information required by § 24.2-410. If a guardian is appointed, the clerk  
448 shall forward a copy of the court order to the local department of social services of the jurisdiction  
449 where the person then resides. If a guardianship is terminated or otherwise modified, the clerk shall  
450 forward a copy of the court order to the local department of social services to which the original order  
451 of appointment was forwarded and, if different, to the local department of social services in the  
452 jurisdiction where the person then resides.

453 B. The clerk shall certify and forward forthwith to the Central Criminal Records Exchange, on a  
454 form provided by the Exchange, a copy of any order adjudicating a person incapacitated under this  
455 article and any order of restoration of capacity under § 37.2-1012. The copy of the form and the order  
456 shall be kept confidential in a separate file and used only to determine a person's eligibility to possess,  
457 purchase, or transfer a firearm.

458 **2. That this act shall take effect July 1, 2006, but shall not be construed to affect existing**  
459 **appointments, made by the Governor, for which the terms have not expired. However, any**  
460 **appointments for a full term that are made after July 1, 2006, shall be made in accordance with**  
461 **the provisions of this act.**

462 **3. That the Board of Elections may designate an Acting Director of Elections to serve beginning**  
463 **February 1, 2007, and until the appointment by the Board of a Director. The Acting Director shall**  
464 **serve at the pleasure of the Board. Any appropriation for the compensation of the Secretary of the**  
465 **Board shall be deemed an appropriation for the compensation of the Director of Elections or**  
466 **Acting Director.**