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HOUSE BILL NO. 1004

Offered January 13, 2016

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A BILL to amend and reenact §§ 24.2-643 and 24.2-653 of the Code of Virginia, relating to provisional voting; voter photograph taken at polling place.

Patron—Levine

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-643 and 24.2-653 of the Code of Virginia are amended and reenacted as follows:****§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.**

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. (Effective January 2, 2016) An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his valid Virginia driver's license, his valid United States passport, or any other photo identification issued by the Commonwealth, one of its political subdivisions, or the United States; any valid student identification card containing a photograph of the voter and issued by any institution of higher education located in the Commonwealth or any private school located in the Commonwealth; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

Any voter who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653 *and, if casting such ballot, shall have his photograph taken by an officer of election to be electronically transmitted to the electoral board. Such photograph shall be taken by any electronic device approved by the local electoral board for such purpose.* The State Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral board other than ~~matching submitted identification documents from~~ *confirming that a photograph of the voter was received* for the electoral board to make a determination on whether to count the ballot.

If the voter presents one of the forms of identification listed above, if his name is found on the pollbook in a form identical to or substantially similar to the name on the presented form of identification and the name stated by the voter, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.).

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the

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59 general registrar in the voter's record on the voter registration system.

60 **§ 24.2-653. Voter whose name does not appear on pollbook or who is marked as having voted;**
61 **handling of provisional ballots; ballots cast after normal close of polls due to court order**
62 **extending polling hours.**

63 A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or
64 cannot state that the person is registered to vote, then such person shall be allowed to vote by printed
65 ballot in the manner provided in this section. This procedure shall also apply when required by
66 § 24.2-643 or 24.2-651.1.

67 Such person shall be given a printed ballot and provide, subject to the penalties for making false
68 statements pursuant to § 24.2-1016, on a green envelope supplied by the Department of Elections, the
69 identifying information required on the envelope, including the last four digits of his social security
70 number, if any, full name including the maiden or any other prior legal name, date of birth, complete
71 address, and signature. Such person shall be asked to present one of the forms of identification specified
72 in subsection B of § 24.2-643. The officers of election shall note on the green envelope whether or not
73 the voter has presented one of the specified forms of identification *and, if not, that a photograph of the*
74 *voter was taken by an officer of election to be transmitted to the electoral board.* The officers of
75 election shall enter the appropriate information for the person in the precinct provisional ballots log in
76 accordance with the instructions of the State Board but shall not enter a consecutive number for the
77 voter on the pollbook nor otherwise mark his name as having voted. The officers of election shall
78 provide an application for registration to the person offering to vote in the manner provided in this
79 section.

80 The voter shall then, in the presence of an officer of election, but in a secret manner, mark the
81 printed ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the
82 ballot shall then promptly be placed in the ballot container by an officer of election.

83 An officer of election, by a written notice given to the voter, shall (i) inform him that a
84 determination of his right to vote shall be made by the electoral board, (ii) advise the voter of the
85 beginning time and place for the board's meeting and of the voter's right to be present at that meeting,
86 and (iii) inform a voter voting provisionally when required by § 24.2-643 that ~~he may submit a copy of~~
87 ~~one of the forms of identification specified in subsection B of § 24.2-643 to the electoral board by~~
88 ~~facsimile, electronic mail, in-person submission, or timely United States Postal Service or commercial~~
89 ~~mail delivery, to be received by his photograph will be transmitted to the electoral board and no further~~
90 ~~action by him is necessary.~~ *The general registrar shall ensure that any photograph of a voter taken by*
91 *an officer of elections is transmitted to the electoral board no later than noon on the third day after the*
92 election. At the meeting, the voter may request an extension of the determination of the provisional vote
93 in order to provide information to prove that the voter is entitled to vote in the precinct pursuant to
94 § 24.2-401. The electoral board shall have the authority to grant such extensions which it deems
95 reasonable to determine the status of a provisional vote.

96 B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be
97 sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes
98 contained therein, and signed by the officers of election who counted them. All provisional votes
99 envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such
100 envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the
101 electoral board has directed delivery of election materials to the general registrar pursuant to §
102 24.2-668.

103 The electoral board shall meet on the day following the election and determine whether each person
104 having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in
105 which he offered the provisional vote. If the board is unable to determine the validity of all the
106 provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot
107 an extension as provided in subsection A, the meeting shall stand adjourned, not to exceed seven
108 calendar days from the date of the election, until the board has determined the validity of all provisional
109 ballots offered in the election.

110 One authorized representative of each political party or independent candidate in a general or special
111 election or one authorized representative of each candidate in a primary election shall be permitted to
112 remain in the room in which the determination is being made as an observer so long as he does not
113 participate in the proceedings and does not impede the orderly conduct of the determination. Each
114 authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each
115 representative, who is not himself a candidate or party chairman, shall present to the electoral board a
116 written statement designating him to be a representative of the party or candidate and signed by the
117 county or city chairman of his political party, the independent candidate, or the primary candidate, as
118 appropriate. If the county or city chairman is unavailable to sign such a written designation, such a
119 designation may be made by the state or district chairman of the political party. However, no written
120 designation made by a state or district chairman shall take precedence over a written designation made

121 by the county or city chairman. Such statement, bearing the chairman's or candidate's original signature,
122 may be photocopied and such photocopy shall be as valid as if the copy had been signed.

123 Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),
124 attendance at meetings of the electoral board to determine the validity of provisional ballots shall be
125 permitted only for the authorized representatives provided for in this subsection, for the persons whose
126 provisional votes are being considered and their representative or legal counsel, and for appropriate staff
127 and legal counsel for the electoral board.

128 If the electoral board determines that such person was not entitled to vote as a qualified voter in the
129 precinct in which he offered the provisional vote; *or is unable to determine his right to vote, or has not*
130 *been provided one of the forms of identification specified in subsection B of § 24.2-643*, the envelope
131 containing his ballot shall not be opened and his vote shall not be counted. The provisional vote *of a*
132 *person voting provisionally when required by § 24.2-643* shall be counted if *such person is entitled to*
133 *vote in the precinct pursuant to § 24.2-401 and the electoral board confirms that a photograph of him*
134 *taken by an officer of election at the polling place has been received. The provisional vote of any other*
135 *person shall be counted if* (a) such person is entitled to vote in the precinct pursuant to § 24.2-401 or
136 (b) the Department of Elections or the voter presents proof that indicates the voter submitted an
137 application for registration to the Department of Motor Vehicles or other state-designated voter
138 registration agency prior to the close of registration pursuant to § 24.2-416 and the registrar determines
139 that the person was qualified for registration based upon the application for registration submitted by the
140 person pursuant to subsection A. The general registrar shall notify in writing pursuant to § 24.2-114
141 those persons found not properly registered or whose provisional vote was not counted.

142 If the electoral board determines that such person was entitled to vote, the name of the voter shall be
143 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and
144 the ballot placed in a ballot container without any inspection further than that provided for in
145 § 24.2-646.

146 On completion of its determination, the electoral board shall proceed to count such ballots and certify
147 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No
148 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.
149 However, any voter who cast a provisional ballot and is determined by the electoral board to have been
150 entitled to vote shall have his name included on the list of persons who voted that is submitted to the
151 Department of Elections pursuant to § 24.2-406.

152 The certification of the results of the count together with all ballots and envelopes, whether open or
153 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit
154 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

155 C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any
156 ballots marked after the normal polling hours by persons who were not already in line at the time the
157 polls would have closed, notwithstanding the court order, shall be treated as provisional ballots under
158 this section. The officers of election shall mark the green envelope for each such provisional ballot to
159 indicate that it was cast after normal polling hours due to the court order, and when preparing the
160 materials to deliver to the registrar or electoral board, shall separate these provisional ballots from any
161 provisional ballots used for any other reason. The electoral board shall treat these provisional ballots as
162 provided in subsection B; however, the counted and uncounted provisional ballots marked after the
163 normal polling hours shall be kept separate from all other ballots and recorded in a separate provisional
164 ballots pollbook. The Department of Elections shall provide instructions to the electoral boards for the
165 handling and counting of such provisional ballots pursuant to this section.