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SENATE BILL NO. 114

Offered January 10, 2018

Prefiled December 15, 2017

A BILL to amend and reenact §§ 24.2-101, 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 24.2-702.2 and 24.2-703.3; and to repeal §§ 24.2-702.1 through 24.2-703.2 of the Code of Virginia, relating to absentee voting; no excuse required.

Patrons—Locke; Delegate: Kory

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-702.2 and 24.2-703.3 as follows:

§ 24.2-101. Definitions.

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

"Ballot scanner machine" means the electronic counting machine in which a voter inserts a marked ballot to be scanned and the results tabulated.

"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 political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.), 9.3 (§ 24.2-945 et seq.), and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of Chapters 9.3 (§ 24.2-945 et seq.) and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ 24.2-947 et seq.) of Chapter 9.3.

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

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

"Department of Elections" or "Department" means the state agency headed by the Commissioner of Elections.

"Direct recording electronic machine" or "DRE" means the electronic voting machine on which a voter touches areas of a computer screen, or uses other control features, to mark a ballot and his vote is recorded electronically.

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

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

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

"Entrance of polling place" or "entrance to polling place" means an opening in the wall used for ingress to a structure.

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

"General registrar" means the person appointed by the electoral board of a county or city pursuant to § 24.2-110 to be responsible for all aspects of voter registration, in addition to other duties prescribed by

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59 this title. When performing duties related to the administration of elections, the general registrar is acting
60 in his capacity as the director of elections for the locality in which he serves.

61 "Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device
62 operated by a voter and then fed into and scanned by a counting machine capable of reading ballots and
63 tabulating results.

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

66 "Paper ballot" means a tangible ballot that is marked by a voter and then manually counted.

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

72 "Person with a disability" means a person with a disability as defined by the Virginians with
73 Disabilities Act (§ 51.5-1 et seq.) the same as that term is defined in § 51.5-40.1.

74 "Polling place" means the structure that contains the one place provided for each precinct at which
75 the qualified voters who are residents of the precinct may vote.

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

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

80 "Printed ballot" means a tangible ballot that is printed on paper and includes both machine-readable
81 ballots and paper ballots.

82 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and
83 who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or
84 subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers
85 to vote, and (iii) a registered voter. No person who has been convicted of a felony shall be a qualified
86 voter unless his civil rights have been restored by the Governor or other appropriate authority. No
87 person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as
88 provided by law. Whether a signature should be counted towards satisfying the signature requirement of
89 any petition shall be determined based on the signer of the petition's qualification to vote. For purposes
90 of determining if a signature on a petition shall be included in the count toward meeting the signature
91 requirements of any petition, "qualified voter" shall include only persons maintained on the Virginia
92 voter registration system (a) with active status and (b) with inactive status who are qualified to vote for
93 the office for which the petition was circulated.

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

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

99 "Registered voter" means any person who is maintained on the Virginia voter registration system. All
100 registered voters shall be maintained on the Virginia voter registration system with active status unless
101 assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For
102 purposes of applying the precinct size requirements of § 24.2-307, calculating election machine
103 requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election
104 district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306,
105 and determining the number of signatures required for candidate and voter petitions, "registered voter"
106 shall include only persons maintained on the Virginia voter registration system with active status. For
107 purposes of determining if a signature on a petition shall be included in the count toward meeting the
108 signature requirements of any petition, "registered voter" shall include only persons maintained on the
109 Virginia voter registration system (i) with active status and (ii) on inactive status who are qualified to
110 vote for the office for which the petition was circulated.

111 "Registration records" means all official records concerning the registration of qualified voters and
112 shall include all records, lists, applications, and files, whether maintained in books, on cards, on
113 automated data bases, or by any other legally permitted record-keeping method.

114 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires
115 both domicile and a place of abode. To establish domicile, a person must live in a particular locality
116 with the intention to remain. A place of abode is the physical place where a person dwells.

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

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

120 "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.

"Voting system" means the electronic voting and counting machines used at elections. This term includes direct recording electronic machines (DRE) and ballot scanner machines.

§ 24.2-452. Definitions.

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

1. "Covered voter" means:

- a. A uniformed-service voter or an overseas voter who is registered to vote in this state;
- b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements; ~~including subdivision 2 of § 24.2-700;~~
- c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
- d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
- e. An overseas voter who was born outside the United States, is not described in subdivision c or d, and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:

(1) The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this state; and

(2) The voter has not previously registered to vote in any other state.

2. "Dependent" means an individual recognized as a dependent by a uniformed service.

3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301(b)(2).

4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20303, that may be used in all elections in which the voter is eligible to vote as provided in § ~~24.2-702.1~~ 24.2-702.2.

5. "Military-overseas ballot" means:

- a. A federal write-in absentee ballot;
- b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title; or
- c. A ballot cast by a covered voter in accordance with this title.

6. "Overseas voter" means a United States citizen who is outside the United States.

7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

8. "Uniformed service" means:

- a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;
- b. The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
- c. The Virginia National Guard.

9. "Uniformed-service voter" means an individual who is qualified to vote and is:

- a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;
- b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;
- c. A member on activated status of the National Guard; or
- d. A spouse or dependent of a member referred to in this definition.

10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

§ 24.2-612. List of offices and candidates filed with Department of Elections and checked for accuracy; when ballots printed; number required.

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each general registrar shall forward to the Department of Elections a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each general registrar shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the general registrar shall also provide a copy of the notice to each disqualified candidate. The notice shall be sent by email or regular mail to the address on the candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The

182 Department of Elections shall promptly advise the general registrar of the accuracy of the list. The
183 failure of any general registrar to send the list to the Department of Elections for verification shall not
184 invalidate any election.

185 Each general registrar shall have printed the number of ballots he determines will be sufficient to
186 conduct the election. Such determination shall be based on the number of active registered voters and
187 historical election data, including voter turnout, and shall be subject to the approval by the electoral
188 board.

189 Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise
190 provide one statewide paper ballot style for each paper ballot style in use for presidential and
191 vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402
192 or only for federal elections under § 24.2-453. The Department of Elections may apportion or authorize
193 the printer or vendor to apportion the costs for these ballots among the localities based on the number of
194 ballots ordered. Any printer employed by the Department of Elections shall execute the statement
195 required by § 24.2-616. The Department of Elections shall designate a representative to be present at the
196 printing of such ballots and deliver them to the appropriate general registrars pursuant to § 24.2-617.
197 Upon receipt of such paper ballots, the electoral board or the general registrar shall affix the seal of the
198 electoral board. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the
199 Department of Elections shall specifically direct.

200 The general registrar shall make printed ballots available for absentee voting not later than 45 days
201 prior to any election or within three business days of the receipt of a properly completed absentee ballot
202 application, whichever is later. In the case of a special election, excluding for federal offices, if time is
203 insufficient to meet the applicable deadline established herein, then the general registrar shall make
204 printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making
205 printed ballots available includes mailing of such ballots or electronic transmission of such ballots
206 pursuant to § 24.2-706 to a ~~qualified absentee voter who is eligible for an absentee ballot under~~
207 ~~subdivision 2 of § 24.2-700 covered voter as defined in § 24.2-452 who has applied to vote absentee~~
208 ~~pursuant to § 24.2-701 or 24.2-702.2.~~ Not later than five days after absentee ballots are made available,
209 each general registrar shall report to the Department of Elections, in writing on a form approved by the
210 Department of Elections, whether he has complied with the applicable deadline.

211 Only the names of candidates for offices to be voted on in a particular election district shall be
212 printed on the ballots for that election district.

213 The general registrar shall send to the Department of Elections a statement of the number of ballots
214 ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the
215 Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any
216 general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable
217 number of additional ballots.

218 **§ 24.2-700. Persons entitled to vote by absentee ballot.**

219 ~~The following~~ Any registered voters ~~voter~~ may vote by absentee ballot in accordance with the
220 provisions of this chapter in any election in which ~~they are~~ *he is* qualified to vote:

221 1. Any person who, in the regular and orderly course of his business, profession, or occupation or
222 while on personal business or vacation, will be absent from the county or city in which he is entitled to
223 vote;

224 2. Any person who is (i) a member of a uniformed service, as defined in § 24.2-452, on active duty,
225 (ii) temporarily residing outside of the United States, or (iii) the spouse or dependent residing with any
226 person listed in clause (i) or (ii); and who will be absent on the day of the election from the county or
227 city in which he is entitled to vote;

228 3. Any student attending a school or institution of higher education, or his spouse, who will be
229 absent on the day of election from the county or city in which he is entitled to vote;

230 4. Any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in
231 person to the polls on the day of election because of his disability, illness, or pregnancy;

232 5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor,
233 provided that the trial or release date is scheduled on or after the third day preceding the election. Any
234 person who is awaiting trial and is a resident of the county or city where he is confined shall, on his
235 request, be taken to the polls to vote on election day if his trial date is postponed and he did not have
236 an opportunity to vote absentee;

237 6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of
238 voting equipment;

239 7. Any duly registered person who is unable to go in person to the polls on the day of the election
240 because he is primarily and personally responsible for the care of an ill or disabled family member who
241 is confined at home;

242 8. Any duly registered person who is unable to go in person to the polls on the day of the election
243 because of an obligation occasioned by his religion;

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603;

10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1;

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639; or

12. Any person granted a protective order issued by or under the authority of any court of competent jurisdiction.

§ 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in ~~§ 24.2-703~~ § 24.2-702.2 or 24.2-703.3, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is ~~qualified to vote absentee under subdivision 2 of § 24.2-700~~ a covered voter as defined in § 24.2-452.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections, and on the Saturday immediately preceding any primary election, May general election, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall 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 and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made ~~under subdivision 2 of § 24.2-700~~ by a covered voter as defined in § 24.2-452, may be on a federal postcard application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name; *and* the last four digits of the applicant's social security number; *and* the reason the applicant will be absent or cannot vote at his polling place on the day of the election;

2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to

305 him. Any person who makes application under subdivision 2 of ~~§ 24.2-700~~ who is a covered voter as
 306 defined in ~~§ 24.2-452~~ but not a registered voter may file the applications to register and for a ballot
 307 simultaneously; and

308 3. The complete address to which the ballot is to be sent directly to the applicant, unless the
 309 application is made in person at a time when the printed ballots for the election are available and the
 310 applicant chooses to vote in person at the time of completing his application. The address given shall be
 311 (i) the address of the applicant on file in the registration records; (ii) the address at which he will be
 312 located while absent from his county or city; or (iii) the address at which he will be located while
 313 temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other
 314 person; and

315 4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a
 316 member of the uniformed services as defined in ~~§ 24.2-452~~, the branch of service to which he or the
 317 spouse belongs; or

318 5. In the case of a student, or the spouse of a student, who is attending a school or institution of
 319 higher education, the name of the school or institution of higher education; or

320 6. In the case of any duly registered person with a disability, as defined in ~~§ 24.2-101~~, who is unable
 321 to go in person to the polls on the day of the election because of his disability, illness, or pregnancy;
 322 that he is a person with a disability, illness, or pregnancy; or

323 7. In the case of a person who is confined awaiting trial or for having been convicted of a
 324 misdemeanor, the name of the institution of confinement; or

325 8. In the case of a person who will be absent on election day for business reasons, the name of his
 326 employer or business; or

327 9. In the case of a person who will be absent on election day for personal business or vacation
 328 reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

329 10. In the case of a person who is unable to go to the polls on the day of election because he is
 330 primarily and personally responsible for the care of an ill or disabled family member who is confined at
 331 home, his relationship to the family member; or

332 11. In the case of a person who is unable to go to the polls on the day of election because of an
 333 obligation occasioned by his religion, that he has an obligation occasioned by his religion; or

334 12. In the case of a person who, in the regular and orderly course of his business, profession, or
 335 occupation, will be at his place of work and commuting to and from his home to his place of work for
 336 11 or more hours of the 13 hours that the polls are open pursuant to ~~§ 24.2-603~~, the name of his
 337 business or employer and hours he will be at the workplace and commuting on election day; or

338 13. In the case of a law-enforcement officer, as defined in ~~§ 18.2-51.1~~; firefighter, as defined in
 339 ~~§ 65.2-102~~; volunteer firefighter, as defined in ~~§ 27-42~~; search and rescue personnel, as defined in
 340 ~~§ 18.2-51.1~~; or emergency medical services personnel, as defined in ~~§ 32.1-111.1~~, that he is a first
 341 responder; or

342 14. In the case of a person who has been designated by a political party, independent candidate, or
 343 candidate in a primary election to be a representative of the party or candidate inside a polling place on
 344 the day of the election pursuant to subsection C of ~~§ 24.2-604~~ and ~~§ 24.2-639~~, the fact that he is so
 345 designated; or

346 15. In the case of a person who has been granted a protective order issued by or under the authority
 347 of any court of competent jurisdiction, the name of the county or city in Virginia or the state of the
 348 issuing court.

349 ***§ 24.2-702.2. Uniformed and overseas voters.***

350 A. Any qualified voter who is a covered voter as defined in ~~§ 24.2-452~~ may use a federal write-in
 351 absentee ballot in any election. Such ballot shall be submitted and processed in the manner provided by
 352 the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) and this chapter.

353 Notwithstanding any other provision of this title, a federal write-in absentee ballot so submitted shall
 354 be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a
 355 completed absentee ballot, provided that the ballot is received no later than the deadline for the return
 356 of absentee ballots as provided in ~~§ 24.2-709~~ for the election in which the voter offers to vote, and the
 357 application contains the following information: (i) the voter's signature; however, if the voter is unable
 358 to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's
 359 printed name; (iii) the county or city in which he is registered and offers to vote; (iv) the residence
 360 address at which he is registered to vote; (v) his current military or overseas address; and (vi) the
 361 signature of a witness who shall sign the same application.

362 This subsection shall not be construed to require that an absentee ballot be sent to the absentee
 363 voter on receipt of a federal write-in absentee ballot unless the voter has also submitted an absentee
 364 ballot application pursuant to ~~§ 24.2-701~~ or subsection B.

365 B. Any qualified voter who is a covered voter as defined in ~~§ 24.2-452~~ may file a single application
 366 to receive ballots for all elections in which he is eligible to vote absentee. The application shall be on a

federal postcard application. An application from any person who is already registered or who is eligible for late registration under § 24.2-419 that is received by the general registrar no later than 5:00 p.m. on the seventh day prior to the election shall be considered a standing request for absentee ballots through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies. In the event that a second or subsequent federal postcard application is received from a voter, any previous applications shall be superseded and the duration of the most recently received application shall apply.

The general registrar shall retain the application and process the applicant's request for an absentee ballot for each election in accordance with procedures established by the State Board. The applicant shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots shall be sent. No ballot shall be sent to the applicant and no voted ballot received from the applicant shall be valid (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

§ 24.2-703.3. Persons with a disability.

A. Any qualified voter who is a person with a disability as defined in § 24.2-101 and, because of his disability or illness, is unable to go in person to the polls on the day of the election and is likely to remain unable to go in person to the polls because of his disability or illness for the remainder of the calendar year shall be eligible to file a special annual application to receive ballots for all elections in which he is qualified to vote in a calendar year.

1. His first such application shall be accompanied by a statement, on a form prescribed by the State Board and signed by the voter and his physician, provider as defined in § 37.2-403, or accredited religious practitioner, that the voter is a person with a disability as defined in § 24.2-101 and, because of his disability or illness, is unable to go in person to the polls on the day of the election and is likely to remain unable to go in person to the polls because of his disability or illness for the remainder of the calendar year.

2. The general registrar, in accordance with procedures established by the State Board, shall retain the application and form, enroll the applicant on a special absentee voter applicant list, and process the applicant's request for an absentee ballot for each succeeding election in the calendar year. The applicant shall specify by party designation the primary ballots he is requesting.

3. The general registrar shall send each such enrolled applicant a blank application by December 15 for each ensuing calendar year, and upon completion thereof, the applicant shall be eligible to receive ballots for all elections in which he is qualified to vote in that calendar year.

4. If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, or the general registrar knows that the applicant is no longer a qualified voter, no ballot for any subsequent election shall be sent to the voter until a new application is filed and accepted.

B. Any qualified voter who is a person with a disability as defined in § 24.2-101 and applies for an absentee ballot, but does not receive or loses the absentee ballot that is mailed to him, may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day. He shall designate, in writing, a representative to obtain a replacement absentee ballot on his behalf from the general registrar and to return the properly completed ballot as directed by the general registrar no later than the close of polls on the day of election for which the absentee ballot is valid. The representative shall be age 18 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 voter and representative shall complete the form prescribed by the State Board to implement the provisions of this section. The form shall include a statement signed by the voter that he did not receive the ballot or has lost the ballot. Statements on the form shall be subject to felony penalties for making false statements pursuant to § 24.2-1016.

§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.

On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the

individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is _____ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of _____ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter _____

Date _____

Signature of witness _____"

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

3. A properly addressed envelope for the return of the ballot to the general registrar by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed ballots for the election are available, the general registrar, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the general registrar. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant

offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 to the applicant by mail, obtaining a certificate or other evidence of mailing.

If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision 2 of § 24.2-700 is a covered voter as defined in § 24.2-452, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

When the statement prescribed in subdivision 2 has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

§ 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 24.2-703.3 and 24.2-705.

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar, or at another location or locations in the county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-701 and 24.2-706. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant by mail, obtaining a certificate or other evidence of mailing.

Failure to follow the procedures set forth above shall render the applicant's ballot void.

The general registrar of any county or city using a central absentee voting precinct may provide for

the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The Department of Elections shall prescribe procedures for the use of voting equipment. The procedures shall provide for the casting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the Department of Elections. The procedures shall be applicable and uniformly applied by the Department of Elections to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.

The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar and the general registrar or an assistant registrar is present.

§ 24.2-709. Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar before the closing of the polls. The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by an absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 as defined in § 24.2-452 shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

C. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

§ 24.2-1004. Illegal voting and registrations.

A. Any person who wrongfully deposits a ballot in the ballot container or casts a vote on any voting equipment, is guilty of a Class 1 misdemeanor.

B. Any person who intentionally (i) votes more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (ii) procures, assists, or induces another to vote more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (iii) votes knowing that he is not qualified to vote where and when the vote is to be given, or (iv) procures, assists, or induces another to vote knowing that such person is not qualified to vote where and when the vote is to be given is guilty of a Class 6 felony.

C. Any person who intentionally (i) registers to vote at more than one residence address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to register to vote at more than one address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who, when registering to vote, changing the address at which he is registered, transferring his registration, or assisting another in registering, changing his address, or transferring his registration, provides the information required by § 24.2-418 on the applicant's place of last previous registration to vote.

D. Nothing in this section shall be construed to prohibit a person entitled to vote absentee under subdivision 2 of § 24.2-700 covered voter as defined in § 24.2-452 from casting in the same election both a state ballot and a write-in absentee ballot that is processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.). If both ballots are received prior to the close of the polls on election day, the state ballot shall be counted.

2. That §§ 24.2-702.1 through 24.2-703.2 of the Code of Virginia are repealed.