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HOUSE BILL NO. 2081

Offered January 13, 2021

Prefiled January 12, 2021

A BILL to amend and reenact §§ 24.2-604, 24.2-671, and 24.2-802.1 of the Code of Virginia, relating to polling places; prohibited activities; possession of a firearm; penalty.

Patrons—Levine, Carr, Filler-Corn, Kory, Murphy and Price

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-604, 24.2-671, and 24.2-802.1 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-604. Polling places; prohibited activities; prohibited area; penalties.

A. During the times the polls are open and ballots are being counted, *or within one hour of opening or after closing*, it is unlawful for any person (i) to loiter or congregate within 40 feet of any entrance of any polling place; (ii) within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote; ~~or~~ (iii) to hinder or delay a qualified voter in entering or leaving a polling place; *or* (iv) *to knowingly possess any firearm as defined in § 18.2-308.2:2 within 40 feet of any building, or part thereof, used as a polling place.*

B. Prior to opening the polls, the officers of election shall post, in the area within 40 feet of any entrance to the polling place, sufficient notices ~~which~~ *that* state "Prohibited Area" in two-inch type. The notices shall also state the provisions of this section in not less than 24-point type. The officers of election shall post the notices within the prohibited area to be visible to voters and the public.

C. It is unlawful for any authorized representative permitted in the polling place pursuant to § 24.2-604.4, any voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; (v) be in a position to see the marked ballot of any other voter; or (vi) otherwise impede the orderly conduct of the election.

D. The provisions of subsections A and C shall not be construed to prohibit a person who approaches or enters the polling place for the purpose of voting from wearing a shirt, hat, or other apparel on which a candidate's name or a political slogan appears or from having a sticker or button attached to his apparel on which a candidate's name or a political slogan appears. This exemption shall not apply to candidates, representatives of candidates, or any other person who approaches or enters the polling place for any purpose other than voting.

E. This section shall not be construed to prohibit a candidate from entering any polling place on the day of the election to vote, or to visit a polling place for no longer than 10 minutes per polling place per election day, provided that he complies with the restrictions stated in subsections A, C, and D.

F. *The provisions of clause (iv) of subsection A shall not apply to (i) any law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (ii) any person occupying his own private property that falls within 40 feet of a polling place; or (iii) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, whose employment or performance of his duties occurs within 40 feet of any building, or part thereof, used as a polling place.*

G. The officers of election may require any person who is found by a majority of the officers present to be in violation of this section to remain outside of the prohibited area. Any person violating subsection A or C is guilty of a Class 1 misdemeanor.

§ 24.2-671. Electoral board to meet and ascertain results; conclusiveness of results.

Each electoral board shall meet at the clerk's or general registrar's office of the county or city for which they are appointed at or before 5:00 p.m. on the day after any election. The board may adjourn to another room of sufficient size in a public building to ascertain the results, and may adjourn as needed, not to exceed seven calendar days from the date of the election. Written directions to the location of any room other than the clerk's or general registrar's office where the board will meet shall be posted at the doors of the clerk's and general registrar's offices prior to the beginning of the meeting.

The board shall open the returns delivered by the officers.

If the electoral board has exercised the option provided by § 24.2-668 for delivery of the election materials to the office of the general registrar on the night of the election, the electoral board shall meet at the office of the general registrar at or before 5:00 p.m. on the day after any election.

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59 The board shall ascertain from the returns the total votes in the county or city, or town in a town
60 election, for each candidate and for and against each question and complete the abstract of votes cast at
61 such election, as provided for in § 24.2-675. For any office in which no person was elected by write-in
62 votes, and for which the total number of write-in votes for that office is less than (i) 10 percent of the
63 total number of votes cast for that office and (ii) the total number of votes cast for the candidate
64 receiving the most votes, the electoral board shall ascertain the total votes for each write-in candidate for
65 the office within one week following the election. For offices for which the electoral board issues the
66 certificate of election, the result so ascertained, signed and attested, shall be conclusive and shall not
67 thereafter be subject to challenge except as specifically provided in Chapter 8 (§ 24.2-800 et seq.) of this
68 title.

69 Once the result is so ascertained, the secretary of the electoral board shall deliver one copy of each
70 statement of results to the general registrar to be available for inspection when his office is open for
71 business. The secretary shall then return all pollbooks, any printed inspection and return sheets, and one
72 copy of each statement of results to the clerk.

73 Beginning with the general election in November 2007, a report of any changes made by the local
74 electoral board to the unofficial results ascertained by the officers of election or any subsequent change
75 to the official abstract of votes made by the local electoral board shall be forwarded to the State Board
76 of Elections and the explanation of such change shall be posted on the State Board website.

77 Each political party and each independent candidate on the ballot, or each primary candidate, shall be
78 entitled to have representatives present when the local electoral board meets to ascertain the results of
79 the election. Each such party and candidate shall be entitled to have at least as many representatives
80 present as there are teams of officials working to ascertain the results, and the room in which the local
81 electoral board meets shall be of sufficient size and configuration to allow the representatives reasonable
82 access and proximity to view the ballots as the teams of officials work to ascertain the results. The
83 representatives and observers lawfully present shall be prohibited from interfering with the officials in
84 any way. *It is unlawful for any person to knowingly possess any firearm as defined in § 18.2-308.2:2*
85 *within 40 feet of any building, or part thereof, used as a meeting place for the local electoral board*
86 *while the electoral board meets to ascertain the results of an election, unless such person is (a) any*
87 *law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of*
88 *§ 18.2-308.016; (b) occupying his own private property that falls within 40 feet of a polling place; or*
89 *(c) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1,*
90 *whose employment or performance of his duties occurs within 40 feet of any building, or part thereof,*
91 *used as a meeting place for the local electoral board while the electoral board meets to ascertain the*
92 *results of an election.*

93 **§ 24.2-802.1. Preliminary hearing; court to fix procedure for recount, appoint officers, and**
94 **supervise the recount.**

95 A. Within seven calendar days of the filing of the petition for a recount of any election other than an
96 election for presidential electors, or within five calendar days of the filing of a petition for a recount of
97 an election for presidential electors, the chief judge of the circuit court shall call a preliminary hearing
98 at which (i) motions may be disposed of and (ii) the rules of procedure may be fixed, both subject to
99 review by the full court. The petitioner and his counsel and each other party and their counsel under
100 supervision of the electoral board and its agents shall have access to pollbooks and other materials used
101 in the election for examination purposes, provided that individual ballots cast in the election shall not be
102 examined at the preliminary hearing. The chief judge during the preliminary hearing shall review all
103 security measures taken for all ballots and voting systems and direct, as he deems necessary, all
104 appropriate measures to ensure proper security to conduct the recount.

105 The chief judge, subject to review by the full court, may set the place for the recount and may order
106 the delivery of election materials to a central location and the transportation of voting systems to a
107 central location in each county or city under appropriate safeguards. *These safeguards shall include*
108 *prohibiting any person from knowingly possessing any firearm as defined in § 18.2-308.2:2 within 40*
109 *feet of any building or part thereof used as the place for the recount, unless such person is (a) any*
110 *law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of §*
111 *18.2-308.016; (b) occupying his own private property that falls within 40 feet of a polling place; or (c)*
112 *an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1,*
113 *whose employment or performance of his duties occurs within 40 feet of any building, or part thereof,*
114 *used as a place for the recount.*

115 B. After the full court is appointed under § 24.2-801 or 24.2-801.1, it shall call a hearing at which
116 all motions shall be disposed of and the rules of procedure shall be fixed finally, and it shall issue a
117 written order setting out such rules of procedure. The court shall call for the advice and cooperation of
118 the Department, the State Board, or any local electoral board, as appropriate, and such boards or agency
119 shall have the duty and authority to assist the court. The court shall fix any additional procedures, that
120 are not provided for in this chapter, that shall provide for the accurate counting of votes in the election.

121 The recount procedures to be followed throughout the election district shall be as uniform as practicable,
122 taking into account the types of ballots and voting systems in use in the election district.

123 C. The court shall permit each candidate, or petitioner and governing body or chief executive officer,
124 to select an equal number of the officers of election to be recount officials and to count printed ballots.
125 The number shall be fixed by the court and be sufficient to conduct the recount within a reasonable
126 period. The court may permit each party to the recount to submit a list of alternate officials in the
127 number the court directs. There shall be at least one team from each locality using ballot scanner
128 machines to insert the ballots into one or more scanners. Each team shall be composed of one
129 representative of each party.

130 The court may provide that if, at the time of the recount, any recount official fails to appear, the
131 remaining recount officials present shall appoint substitute recount officials who shall possess the same
132 qualifications as the recount officials for whom they substitute. The court may select pairs of recount
133 coordinators to serve for each county or city in the election district who shall be members of the county
134 or city electoral board and represent different political parties. The court shall have authority to summon
135 such officials and coordinators. On the request of any party to the recount, the court shall allow that
136 party to appoint one representative observer for each team of recount officials. The representative
137 observers shall have an unobstructed view of the work of the recount officials. The expenses of its
138 representatives shall be borne by each party.

139 D. The court (i) shall supervise the recount and (ii) may require delivery of any or all pollbooks used
140 and any or all ballots cast at the election, or may assume supervision thereof through the recount
141 coordinators and officials.