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HOUSE BILL NO. 2278

Offered January 14, 2021

A BILL to amend and reenact §§ 24.2-101, 24.2-418, 24.2-530, 24.2-535, 24.2-703, and 24.2-703.1, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-423.1, relating to voter registration; political party affiliation; closed primary elections.

Patrons—Davis, Campbell, R.R., Cole, M.L., LaRock and Wiley

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-418, 24.2-530, 24.2-535, 24.2-703, and 24.2-703.1, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-423.1 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 office" 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 this title. When performing duties related to the administration of elections, the general registrar is acting

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59 in his capacity as the director of elections for the locality in which he serves.

60 "Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device
61 operated by a voter, is available for verification by the voter at the time the ballot is cast, and is then
62 fed into and scanned by a separate counting machine capable of reading ballots and tabulating results.

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

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

66 "Party" or "political party" means an organization of citizens of the Commonwealth ~~which~~ *that*, at
67 either of the two preceding statewide general elections, received at least 10 percent of the total vote cast
68 for any statewide office filled in that election. The organization shall have a state central committee and
69 an office of elected state chairman ~~which~~ *that* have been continually in existence for the six months
70 preceding the filing of a nominee for any office. *An organization that has qualified as a political party*
71 *pursuant to this definition shall maintain its status as a political party in each succeeding calendar year*
72 *in which it has been designated as the political party affiliation of 15 percent or more of the voters*
73 *maintained on the Virginia voter registration system with active status as of January 1 of the preceding*
74 *calendar year.*

75 "Person with a disability" means a person with a disability as defined by the Virginians with
76 Disabilities Act (§ 51.5-1 et seq.).

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

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

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

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

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

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

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

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

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

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

120 "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.

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

§ 24.2-418. Application for registration.

A. Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated and disqualified to vote or convicted of a felony, and if so, whether the applicant's right to vote has been restored. The form shall contain a statement that whoever votes more than once in any election in the same or different jurisdictions is guilty of a Class 6 felony. Unless directed by the applicant or as permitted in § 24.2-411.2 or 24.2-411.3, the registration application shall not be pre-populated with information the applicant is required to provide.

The form of the application to register shall provide a space for the applicant to state his political party affiliation or independent status. If the applicant does not state a political party affiliation, the applicant shall be designated as independent in the registration records.

The form of the application to register shall request that the applicant provide his telephone number and email address, but no application shall be denied for failure to provide such information.

B. The form shall permit any individual, as follows, or member of his household, to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, on voter registration records made available for public inspection pursuant to § 24.2-444, or on lists of absentee voter applicants furnished pursuant to § 24.2-706 or 24.2-710. The voter shall comply with the provisions of § 24.2-424 for any change in the post office box address provided under this subsection.

1. Any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C. § 8331(20), but excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20);

2. Any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia;

3. Any party who has furnished a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him;

4. Any party participating in the address confidentiality program pursuant to § 2.2-515.2;

5. Any active or retired federal or Virginia justice or judge and any active or retired attorney employed by the United States Attorney General or Virginia Attorney General; and

6. Any person who has been approved to be a foster parent pursuant to Chapter 9 (§ 63.2-900 et seq.) of Title 63.2.

C. If the applicant formerly resided in another state, the general registrar shall send the information contained in the applicant's registration application to the appropriate voter registration official or other authority of another state where the applicant formerly resided, as prescribed in subdivision 15 of § 24.2-114.

§ 24.2-423.1. Change of registered voter's political party affiliation.

A. Any registered voter may change his political party affiliation or independent status on his registration record by providing notice (i) in writing, on a form approved by the State Board for such purpose, to the general registrar of the locality in which he resides or (ii) through electronic means as authorized by the State Board. Notice provided in writing shall be signed by the voter unless he is physically unable to sign, in which case his own mark, acknowledged by a witness, shall be sufficient. Notice provided through electronic means shall be signed by the voter in a manner consistent with the provisions of § 24.2-416.7 and the Uniform Electronic Transactions Act (§ 59.1-479 et seq.).

B. No change in a voter's political party affiliation or independent status shall be entered in the registration records during the period in which registration records are closed pursuant to § 24.2-416.

§ 24.2-530. Who may vote in primary.

~~All persons qualified to vote, pursuant to §§ 24.2-400 through 24.2-403, Any qualified voter who is registered as being affiliated with a political party or who is designated in his registration record as~~

182 *independent* may vote at the primary of that political party. No person shall vote for the candidates of
183 more than one political party and no person shall vote for the candidates of a political party if he is
184 registered as being affiliated with a different political party.

185 **§ 24.2-535. Vote required to nominate.**

186 Any candidate for party nomination to any office who receives a plurality of the votes cast by at his
187 political party primary shall be the nominee of his party for that office and his name shall be printed on
188 the official ballots used in the election for which the primary was held.

189 **§ 24.2-703. Application for absentee ballots for multiple elections for uniformed and overseas**
190 **voters.**

191 Any person who is eligible for a military-overseas ballot as defined in § 24.2-452 may file a single
192 application to receive ballots for all elections in which he is eligible to vote absentee. The application
193 shall be on a federal postcard application. An application from any person who is already registered or
194 who is eligible for late registration under § 24.2-419 that is received by the general registrar no later
195 than 5:00 p.m. on the eleventh day prior to the election shall be considered a standing request for
196 absentee ballots through December 31 of the year following the calendar year of the date of the
197 application or another shorter period the voter specifies. In the event that a second or subsequent federal
198 postcard application is received from a voter, any previous applications shall be superseded and the
199 duration of the most recently received application shall apply.

200 The general registrar shall retain the application and process the applicant's request for an absentee
201 ballot for each election in accordance with procedures established by the State Board. ~~The~~ If the
202 applicant is designated in his registration record as independent, he shall specify by party designation
203 the primary ballots he is requesting.

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

209 **§ 24.2-703.1. (Effective until July 1, 2021) Special annual applications for absentee ballots for**
210 **eligible absentee voters.**

211 Any person who is eligible for an absentee ballot under § 24.2-700 and who is likely to remain so
212 eligible for the remainder of the calendar year shall be eligible to file a special annual application to
213 receive ballots for all elections in which he is eligible to vote in a calendar year. His first such
214 application shall be accompanied by a statement, on a form prescribed by the State Board and signed by
215 the voter, that the voter is eligible for an absentee ballot under § 24.2-700 and likely to remain so
216 eligible for the remainder of the calendar year.

217 In accordance with procedures established by the State Board, the general registrar shall retain the
218 application and form, enroll the applicant on a special absentee voter applicant list, and process the
219 applicant's request for an absentee ballot for each succeeding election in the calendar year. ~~The~~ If the
220 applicant is designated in his registration record as independent, he shall specify by party designation
221 the primary ballots he is requesting.

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

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

228 **§ 24.2-703.1. (Effective July 1, 2021) Permanent absentee voter list.**

229 A. Any registered voter shall be eligible to file a special application to receive absentee ballots for
230 all elections in which he is eligible to vote. Such application shall be on a form approved by the State
231 Board. The absentee ballots sent to a voter on the permanent absentee voter list shall be sent to the
232 address in the voter's registration record, except as provided in subdivision C 1.

233 B. In accordance with procedures established by the State Board, the general registrar shall retain the
234 application, enroll the applicant on a permanent absentee voter list, and process the applicant's request
235 for an absentee ballot for each succeeding election. ~~The~~ If the applicant is designated in his registration
236 record as independent, he shall specify by party designation the primary ballots he is requesting.

237 C. The State Board shall prescribe the process by which a voter on the permanent absentee voter list
238 may:

239 1. Request that his absentee ballot for (i) a single election or (ii) a primary election and the
240 following general election be sent to an address other than the address on his voter registration record.

241 2. Request a primary ballot for a political party other than the one he specified on his application for
242 permanent absentee voter status for a single primary election.

243 3. Change his political party selection for all succeeding primary elections.

244 D. A voter shall be removed from the permanent absentee voter list if (i) the voter requests in
245 writing to be removed from the list, (ii) the voter's registration is canceled pursuant to § 24.2-427, (iii)
246 the voter's registration is placed on inactive status pursuant to § 24.2-428 or 24.2-428.1, or (iv) the voter
247 moves to a different address not in the same county or city of his registration.
248 **2. That the provisions of this act shall become effective on January 1, 2022.**
249 **3. That all voters registered as of the effective date of this act shall be designated in the**
250 **registration records as independent. On or before December 1, 2021, each general registrar shall**
251 **send to each registered voter in his jurisdiction notice that the voter will be designated in the**
252 **Virginia voter registration system as independent. Such notice shall inform the voter of his ability**
253 **to change his political party affiliation beginning on January 1, 2022, and shall include**
254 **instructions for doing so.**