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## HOUSE BILL NO. 1888

House Amendments in [ ] - January 18, 2021

A *BILL to amend and reenact §§ 24.2-101, 24.2-416.1, 24.2-603, 24.2-653.1, 24.2-704, 24.2-705, 24.2-706 through 24.2-711, and 24.2-712 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 24.2-103.2, 24.2-667.1, and 24.2-707.1, relating to absentee voting; procedural and process reforms; availability and accessibility reforms; penalty.*

Patron Prior to Engrossment—Delegate VanValkenburg

Referred to Committee on Privileges and Elections

**1. That §§ 24.2-101, 24.2-416.1, 24.2-603, 24.2-653.1, 24.2-704, 24.2-705, 24.2-706 through 24.2-711, and 24.2-712 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-103.2, 24.2-667.1, and 24.2-707.1 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 in his capacity as the director of elections for the locality in which he serves.

ENGROSSED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

118 "Virginia voter registration system" or "voter registration system" means the automated central  
119 record-keeping system for all voters registered within the Commonwealth that is maintained as provided  
120 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.

**§ 24.2-103.2. Duties of the Department of Elections related to accessible absentee voting.**

*The Department of Elections shall make available to all localities a tool to allow a voter with a visual impairment or print disability to electronically and accessibly receive and mark his absentee ballot using screen reader assistive technology. The Department shall develop instructions regarding the use and availability of such tool, including instructions on making the tool available to voters and counting ballots voted with such tool.*

**§ 24.2-416.1. Voter registration by mail.**

A. A person may apply to register to vote by mail by completing and returning a mail voter registration application form in the manner and time provided by law.

B. Any person, who applies to register to vote by mail pursuant to this article and who has not previously voted in the county or city in which he registers to vote, shall be required to vote in person, either at the polls on election day or in-person absentee. However, this requirement to vote in person shall not apply to a person so long as he (i) is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20302 et seq.); (ii) is provided the right to vote otherwise than in person under § 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20102(b)(2)(B)(ii)), including any disabled voter and any voter age 65 or older; (iii) is entitled to vote by absentee ballot by reason of his confinement while awaiting trial or for having been convicted of a misdemeanor; (iv) is entitled to vote otherwise than in person under other federal law; (v) is a full-time student in an institution of higher education; or (vi) requests to vote an absentee ballot by mail for presidential and vice-presidential elections only, for any reason, as entitled by federal law.

**§ 24.2-603. Hours polls to be open; closing the polls.**

At all elections, the polls shall be open at each polling place at 6:00 a.m. on the day of the election and closed at 7:00 p.m. on the same day except as provided for central absentee voter precincts pursuant to subsection F G of § 24.2-712.

At 6:45 p.m. an officer of election shall announce that the polls will close in fifteen minutes. The officers of election shall list the names of all qualified voters in line before the polling place at 7:00 p.m. and permit those voters and no others to vote after 7:00 p.m.

**§ 24.2-653.1. Voters who did not receive absentee ballots; provisional ballots.**

Any person who offers to vote pursuant to § 24.2-643 at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote, but whose name is shown on the pollbook as having applied for an absentee ballot, shall be entitled to cast a provisional ballot if, for any reason, he did not receive or has lost the absentee ballot *or has chosen to not vote absentee*. In such case, he shall be required to present to the officer of election a statement signed by him that he did not receive the ballot ~~or~~, has lost the ballot, *or has not cast the ballot*, subject to felony penalties for making false statements as pursuant to § 24.2-1016, before being given a printed ballot and permitted to vote the provisional ballot. The electoral board shall process the ballot in accordance with the provisions of § 24.2-653.01 and the instructions of the State Board.

**§ 24.2-667.1. Reporting of results; absentee votes.**

*The general registrar shall report to the Department of Elections the number and results of absentee ballots cast early in person pursuant to § 24.2-701.1 separately from the number and results of all other absentee ballots.*

**§ 24.2-704. Applications and ballots for persons requiring assistance in voting; penalty.**

A. The application for an absentee ballot shall provide space for the applicant to indicate that he will require assistance to vote his absentee ballot by reason of blindness, disability, or inability to read or write.

B. *On receipt of an application from an applicant who indicated that he will require assistance due to a visual impairment or print disability, the general registrar shall offer to provide to the applicant a ballot marking tool with screen reader assistive technology made available pursuant to § 24.2-103.2. If the applicant opts to use such tool, the general registrar shall send by mail to him [ the items set forth in subdivisions B 1 through 4 of § 24.2-706 and instructions for using such tool. An absentee voter using such tool shall return the marked absentee ballot in accordance with the provisions of § 24.2-707 a ballot return envelope and accessible instructions provided by the Department for using such tool and returning the marked ballot. The general registrar shall cause the outer envelope containing the ballot return envelope and accessible instructions to have a tactile marking that identifies the outer envelope as the outer envelope to the voter. For purposes of this section, "tactile marking" includes a hole punch, a cut corner, or a tactile sticker.*

*An absentee voter using such tool shall return the marked absentee ballot in accordance with the*

instructions provided by the Department.

No ballot marked with the electronic ballot marking tool shall be rejected because the ballot was printed on regular paper. No ballot marked with the electronic ballot marking tool shall be rejected on the basis of the position of the voter's signature or address on the ballot return envelope as long as the voter's signature or address is anywhere on the ballot return envelope ] .

C. On receipt of an application from an applicant marked to indicate that he will require assistance due to any other disability or if an applicant offered the ballot marking tool pursuant to subsection B declines to use such tool, the general registrar shall deliver, with the items required by § 24.2-706, the voter assistance form furnished by the State Board pursuant to § 24.2-649. The voter and any person assisting him shall complete the form by signing the request for assistance and statement required of the assistant. If the voter is unable to sign the request, the witness will note this fact on the line for signature of voter. The provisions of § 24.2-649 shall apply to absentee voting and assistance for absentee voters. Any person who willfully violates the provisions of this section or § 24.2-649 in providing assistance to a person who is voting absentee shall be guilty of a Class 5 felony.

**§ 24.2-705. Emergency applications and absentee ballots for individual emergencies.**

A. Any person registered and otherwise qualified to vote may request at any time prior to 2:00 p.m. on the day preceding the election that he be permitted to vote by emergency absentee ballot with the assistance of his designated representative. The Department shall prescribe a form and the instructions for submitting such a request to the general registrar that shows that the voter requesting an emergency absentee ballot (i) was unable to apply for an absentee ballot by the deadline due to his hospitalization or illness, or the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot or (ii) will be unable to vote on election day due to his hospitalization or illness, the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot that occurred after the deadline for applying for an absentee ballot.

The representative designated by a voter for purposes of this subsection 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 requesting voter shall sign the form and 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 form are true and correct. His signature shall be witnessed by the designated representative, who shall sign and return the completed form to the office of the general registrar no later than 5:00 p.m. on the day preceding the election. If the requesting voter is blind or physically unable to sign the form, his designated representative shall write on the signature line that the voter is blind or unable to sign his form.

On receipt of the completed form and a determination of the qualification of the requesting voter to vote, the general registrar shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the requesting voter.

The requesting voter shall vote the absentee ballot as provided by law and mark it in the presence of the designated representative. The designated representative shall complete a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) he is the designated representative of the requesting voter; (ii) he personally delivered the ballot to the voter who applied for it; (iii) in his presence, the voter marked the ballot, the ballot was placed in the envelope provided, the envelope was sealed, and the statement on its reverse side was signed by the requesting voter; and (iv) the ballot was returned, under seal, to the general registrar at the registrar's office.

The ballot shall be counted only if the ballot is received by the general registrar prior to the close of polls, and the general registrar shall deliver the ballot to the officers of election at each appropriate precinct pursuant to § 24.2-710.

B. A qualified voter may vote absentee in person in the office of the general registrar through 2:00 p.m. on the day immediately preceding the election by complying with the requirements of § 24.2-643 and affirming that one of the following emergency circumstances will prevent him from voting on election day:

1. After 12:00 p.m. on the Saturday before the election, an obligation arose that requires the voter be absent from his county or city on election day for (i) his business, profession, or occupation; (ii) the hospitalization of the voter or a member of his immediate family; or (iii) the death of a member of his immediate family. For purposes of this subdivision, "immediate family" means the child, grandchild, parent, grandparent, legal guardian, sibling, or spouse of the voter.

2. The voter is an officer of election who was assigned after 12:00 p.m. on the Saturday before the election to work in a precinct other than his own on election day.

C. The Commissioner of Elections may act administratively to facilitate absentee voting by qualified voters who are emergency workers or utility workers or who otherwise respond to and offer assistance to an area in which a state of emergency has been declared by an appropriate authority. These

administrative actions may include central issuance and acceptance of absentee ballots for federal and state elections using the systems and procedures developed for voters who are members of a uniformed service.

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

A. 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 received. 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.

B. 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.

When this statement 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.

3. ~~A properly addressed~~ An envelope, *properly addressed and postage prepaid*, for the return of the ballot to the general registrar by mail or by the applicant in person, *or to a drop-off location*.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot. *Such instructions shall include information on the sites of all drop-off locations in the county or city.*

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 § 24.2-653.01. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 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.

C. If the applicant completes his application in person under § 24.2-701 at a time when the printed ballots for the election are available, he may request that the general registrar send to him by mail the items set forth in subdivisions B 1 through 4, instead of casting the ballot in person. Such request shall be made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote, and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other evidence of mailing.

D. If the applicant 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 B 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.

E. 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.

A. 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 and 24.2-705.

B. A mailed absentee ballot shall be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, or (iii) to a drop-off location established pursuant to § 24.2-707.1. For purposes of this subsection, "mail" includes a delivery by a commercial delivery service but does not include delivery by a personal courier service or other individual except as

provided by §§ 24.2-703.2 and 24.2-705.

C. Failure to follow the procedures set forth in this section shall render the applicant's ballot void.

**§ 24.2-707.1. Drop-off locations for return of absentee ballots.**

A. The general registrar of each county or city shall establish at the office of the general registrar and each voter satellite office in operation for an election a drop-off location for the purpose of allowing the deposit of completed absentee ballots for such election. On the day of the election, there shall also be a drop-off location at each polling place in operation for the election. The general registrar may establish additional drop-off locations within the county or city as he deems necessary. All drop-off locations shall be accessible; be on public property, unless located at a polling place; and otherwise comply with any criteria for drop-off locations set by the Department.

B. The Department shall set standards for the establishment and operation of drop-off locations, including necessary security requirements. The Department shall submit such standards annually by October 1 to the Chairmen of the House and Senate Committees on Privileges and Elections, the Senate Committee on Finance and Appropriations, and the House Committee on Appropriations.

C. Not later than 55 days prior to any election, the general registrar shall post notice of the sites of the drop-off locations in the locality in the office of the general registrar and on the official website of the county or city. Such notice shall remain in the office of the general registrar and on the official website of the county or city for the duration of the period during which absentee ballots may be returned.

D. Absentee ballots shall be collected from drop-off locations in accordance with the instructions provided by the Department. Such instructions shall include chain of custody requirements and recordkeeping requirements. Absentee ballots shall be collected at least daily by (i) two officers of election [ or electoral board members ] representing the two major political parties where practicable or (ii) two employees from the office of the general registrar, unless the drop-off location is in the office of the general registrar, in which case the general registrar or an assistant general registrar may collect the absentee ballots.

**§ 24.2-708. Return of unused ballots; voting by applicant who did not receive or lost ballot; defaced ballots.**

A. If for any reason a Any person, who has applied for and received a an absentee ballot, decides may choose not to vote absentee; he shall and shall be entitled to cast a ballot in accordance with the provisions of this subsection.

1. The voter may, prior to the day of the election, return the ballot to the general registrar (i) unopened; in the sealed envelope in which it was sent to him or (ii) opened and unmarked; to the general registrar, before the day of the election in which the ballot was intended to be used.

The general registrar shall note on the absentee voter applicant list voter's record, opposite the name of the person returning the ballot voter, the fact that the ballot was returned unused and the date of the return. The general registrar and shall carefully preserve the ballot with all ballots returned unused and deliver them, together. Such ballots shall be delivered, with other returned ballots, to the officers of election on election day. A voter who has returned his unused ballot before the day of the election as provided herein The voter shall then be entitled to vote a regular ballot in the office of the general registrar, or he may choose to vote at his proper polling place or at a central absentee voter precinct on the day of the election. On the day of the election, (a) if the general registrar or an officer of election is able to confirm the return of the unused ballot, the voter shall be entitled to vote a regular ballot in person on election day at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where the person is registered to vote, upon confirmation by the general registrar or an officer of election of the return of the unused ballot. If and (b) if the general registrar or an officer of election is unable to confirm the return of the unused ballot, the voter shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1. Notwithstanding the provisions of this subsection, a

2. The voter may, on the day of the election, return his unused ballot to his proper polling place or central absentee voter precinct on election day and shall be entitled to vote a regular ballot, and his the unused ballot shall be preserved with other unused ballots. The voter shall then be entitled to vote a regular ballot.

3. The voter may, on the day of the election, offer to vote at his proper polling place or at a central absentee voter precinct without returning his unused ballot, and he shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1.

B. If for any reason a Any person who has applied for and has been sent an absentee ballot but does not receive the ballot or loses the ballot, he shall be entitled to cast another a ballot after presenting in accordance with the provisions of this subsection.

1. The voter may, prior to the day of the election, present to the general registrar or officer of election a statement signed by him that he did not receive the ballot or has lost the ballot. Such

statement shall be made subject to felony penalties for making false statements as pursuant to § 24.2-1016, and the voter shall then be entitled to cast a regular ballot. If such person offers

2. The voter may, on the day of the election, offer to vote at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote on the day of the elections, and he shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1.

C. If a Any person who has applied for and has been sent an absentee ballot that has been unintentionally or accidentally defaced and rendered the ballot unfit for voting, he shall be entitled to cast a ballot after presenting in accordance with the provisions of this subsection.

1. The voter may, prior to the day of the election, present the defaced ballot to the general registrar or an officer of election. The returned, and the ballot shall be marked spoiled by the general registrar or an officer of election and placed in a spoiled-ballot envelope to be retained with the ballots for the election. A voter who has returned his defaced ballot before the day of the election as provided herein The voter shall then be entitled to vote a regular ballot in the office of the general registrar, or he may choose to vote at his proper polling place or at a central absentee voter precinct on the day of the election. On the day of the election, (i) if the general registrar or an officer of election is able to confirm the return of the defaced ballot, the voter shall be entitled to vote a regular ballot in person on election day at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote, upon confirmation by the general registrar or an officer of election of the return of the defaced ballot. If and (ii) if the general registrar or an officer of election is unable to confirm the return of the defaced ballot, the voter shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1. A voter who returns

2. The voter may, on the day of the election, present his defaced or unfit ballot to his proper polling place or central absentee voter precinct on election day shall be entitled to vote a regular ballot, and his the defaced or unfit ballot shall be preserved with other spoiled ballots. The voter shall then be entitled to vote a regular ballot.

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

A. Any ballot returned to the office of the general registrar or to a drop-off location in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar or to a drop-off location before the closing of the polls. Any voter who is in line to return an absentee ballot at a drop-off location by 7:00 p.m. on the day of the election shall be permitted to deposit his absentee ballot. 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 (i) the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed or (ii) it is not returned sealed in the outside envelope so long as it is returned sealed in the inner envelope.

B. Notwithstanding the provisions of subsection A, any absentee ballot (i) returned to the general registrar after the closing of the polls on election day but before noon on the third day after the election and (ii) postmarked on or before the date of the election shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. For purposes of this subsection, a postmark shall include any other official indicia of confirmation of mailing by the United States Postal Service or other postal or delivery service.

C. Notwithstanding the provisions of subsection A, any absentee ballot (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 a covered voter, as defined in § 24.2-452, shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. 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.

D. 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.

**§ 24.2-709.1. Processing returned absentee ballots before election day; cure process.**

Each general registrar shall take one or more of the following measures as needed to expedite counting absentee ballots returned by mail before election day: (i) A. On receipt of an absentee ballot returned in person or by mail to the office of the general registrar or to a drop-off location before election day, the general registrar shall mark the date of receipt and that the voter has voted in the voter's record and shall examine the ballot envelopes envelope to verify completion of the required



voter affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available; that the voter has voted; or (iii) open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If the general registrar proceeds to open sealed ballot envelopes as provided in clause (iii); at A voter affirmation statement shall not be deemed to be incomplete on the sole basis of the voter's failure to provide (i) his full name or his middle initial, as long as the voter provided his full first and last name, or (ii) the date, or any part of the date, including the year, on which he signed the statement.

B. If the voter affirmation has been completed as required, the general registrar may [ direct the officers of election to ] open the sealed ballot envelope and insert the ballot in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If a general registrar does not choose to do so, the sealed ballot envelopes shall be deposited into a secure container provided for such purpose, in which they shall remain until the day of the election when the container is delivered to a central absentee voter precinct.

Beginning on the seventh day immediately preceding the election, each general registrar shall [ direct the officers of election to ] open the sealed ballot envelopes of absentee ballots returned and preprocessed in accordance with subsection A and insert the ballots into optical scan counting equipment or other secure ballot container without initiating any ballot count totals.

At least two officers of election, one representing each political party, shall be present during all hours when [ a general registrar ] uses the expedited procedures [ opens ] sealed ballot envelopes [ are opened ] as authorized in or required by this section subsection. No person present while sealed ballot envelopes are opened and ballots are inserted into counting equipment or other secure ballot container pursuant to clause (iii) shall disclose any information concerning the ballots.

In the event that circumstances prevent a general registrar from complying with the provisions of this subsection, such failure shall not be grounds for contesting the election pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8 and shall not invalidate the absentee ballots.

C. For any absentee ballot received by the Friday immediately preceding the day of the election, if the general registrar finds during the examination of the ballot envelope that the required voter affirmation was not correctly or completely filled out or that a procedure required by § 24.2-707 was not properly followed, and such error or failure shall render the ballot void by law, the general registrar shall enter into the voter's record in the voter registration system that the absentee ballot has an issue requiring correction in order for it to be counted. This information shall be included on any absentee voter applicant list provided pursuant to subsection C of § 24.2-710.

Within three days of such finding, the registrar shall notify the voter in writing or by email of the error or failure and shall provide information to the voter on how to correct the issue so his ballot may be counted. The voter shall be entitled to make such necessary corrections before noon on the third day after the election, and his ballot shall then be counted pursuant to the procedures set forth in this chapter if he is found to be entitled to vote. No absentee ballot needing correction shall be delivered to the officers of election at the appropriate precinct until the voter is provided the opportunity to make the necessary corrections pursuant to this subsection.

The general registrar may issue a new absentee ballot to the voter if necessary and shall preserve the first ballot with other spoiled ballots.

#### **§ 24.2-710. Absentee voter applicant lists.**

On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election, unless the registrar opts to open sealed ballot envelopes in order to expedite the counting of absentee ballots in accordance with § 24.2-709.1.

A. The provisions of this subsection shall apply only to those localities not using an electronic pollbook. On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board. The general registrar shall make out a supplementary list containing the names of all persons voting absentee in person or applying to vote absentee pursuant to § 24.2-705 for delivery by 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection upon request during regular office hours.

B. On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the

551 secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief  
552 officer of election for each precinct.

553 Absentee ballots shall be accepted only from voters whose names appear on the attested list.

554 Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot  
555 containers to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot  
556 returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot  
557 container has been delivered, shall be delivered in an appropriate container to the officers of election at  
558 each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall  
559 contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter  
560 applicant list for each precinct.

561 If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and  
562 containers shall be delivered, as provided in this section, to the officers of election for the absentee  
563 precinct.

564 Before noon on the day following the election, the general registrar shall deliver all applications for  
565 absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city,  
566 except that the general registrar may retain all applications for absentee ballots until the electoral board  
567 has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and  
568 counted all provisional ballots pursuant to § 24.2-653.01, at which point all applications shall then be  
569 delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the  
570 sealed applications with the counted ballots.

571 The secretary of the electoral board shall deliver all absentee ballots received after the election to the  
572 clerk of the circuit court.

573 C. Upon request, the State Board shall provide an electronic copy of the absentee voter applicant list  
574 to any political party or candidate. Such lists shall be used only for campaign and political purposes. In  
575 no event shall any list furnished under this section contain (a) any voter's social security number or any  
576 part thereof, (b) any voter's day and month of birth, or (c) the residence address of any voter who has  
577 provided a post office box address to be used on public lists pursuant to § 24.2-418.

578 **§ 24.2-711. Duties of electoral board, general registrar, and officers of election.**

579 A. Before the polls open, the officers of election at each precinct shall mark, for each person on the  
580 absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on  
581 the pollbook. The pollbook may be so marked prior to election day by the general registrar, the  
582 secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or  
583 when the pollbook is produced by the State Board pursuant to § 24.2-404. If the pollbook has been  
584 marked prior to election day, before the polls open the officers of election at each precinct shall check  
585 the marks for accuracy and make any additions or corrections required.

586 The chief officer of election shall keep the copy of the absentee voter applicant list in the polling  
587 place as a public record open for inspection upon request at all times while the polls are open.

588 If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot  
589 and offers to vote in his precinct, the officers of election in the precinct shall determine the matter  
590 pursuant to §§ 24.2-653.1 and 24.2-708.

591 Immediately after the close of the polls, the container of absentee ballots shall be opened by the  
592 officers of election. As each ballot envelope is removed from the container, the name of the voter shall  
593 be called and checked as if the voter were voting in person. If the voter is found entitled to vote, an  
594 officer shall mark the voter's name on the pollbook with the first or next consecutive number from the  
595 voter count form, or shall enter that the voter has voted if the pollbook is in electronic form. The ballot  
596 envelope shall then be opened, and the ballot deposited in the ballot container without being unfolded or  
597 examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. An  
598 unopened envelope shall not be rejected on the sole basis of a voter's failure to provide in the statement  
599 on the back of the unopened envelope his full middle name or his middle initial, unless the voter also  
600 failed to provide his full first and last name. An unopened envelope shall not be rejected on the sole  
601 basis of a voter's failure to provide the date, or any part of the date, including the year, on which he  
602 signed the statement printed on the back of the envelope. At least two officers of election, one  
603 representing each political party, shall write and sign a statement of the cause for rejection on the  
604 envelope or on an attachment to the envelope.

605 When all ballots have been accounted for and either voted or rejected, the officers shall place the  
606 empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope  
607 provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this  
608 title.

609 B. Before noon on the day following the election, the general registrar shall deliver all applications  
610 for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city,  
611 except that the general registrar may retain all applications for absentee ballots until the electoral  
612 board has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity

of and counted all provisional ballots pursuant to § 24.2-653.01, at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

C. The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

**§ 24.2-712. Central absentee voter precincts; counting ballots.**

A. Notwithstanding any other provision of law, the governing body of each county or city ~~may~~ shall establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the Department of Elections and the electoral board.

B. Each central absentee voter precinct shall have at least three officers of election as provided for other precincts. The number of officers shall be determined by the electoral board and general registrar.

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the general registrar on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct pursuant to § 24.2-710.

The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate or other evidence of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.

D. Absentee ballots ~~may~~ shall be processed as required by § 24.2-711 24.2-709.1 by the officers of election at the central absentee voter precinct prior to the closing of the polls. In the case of machine-readable ballots, the ballot container ~~may~~ shall be opened and the absentee ballots ~~may~~ shall be inserted in the counting machines prior to the closing of the polls in accordance with procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy, but no ballot count totals by the machines shall be initiated prior to transmitted outside of the central absentee voter precinct until after the closing of the polls.

In the case of absentee ballots that are counted by hand, the officers of election ~~may~~ shall begin tallying such ballots at any time after [ 3:00 p.m. noon ] on the day of the election in accordance with the procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy. No counts of such tallies shall be determined or transmitted outside of the central absentee voter precinct until after the closing of the polls.

The use of cellular telephones or other communication devices shall be prohibited in the central absentee voter precinct during such *processing and* tallying and until the closing of the polls. Any person present in the central absentee voter precinct shall sign a statement under oath that he will not transmit any counts prior to the closing of the polls. Any person who transmits any counts in violation of this section is guilty of a Class 1 misdemeanor.

E. As soon as the polls are closed in the county or city, the officers of election at the central absentee voter precinct shall proceed promptly to ascertain and record the total vote given by all absentee ballots and report the results in the manner provided for counting and reporting ballots generally in Article 4 (§ 24.2-643 et seq.) of Chapter 6.

~~E.~~ F. The electoral board or general registrar may provide that the officers of election for a central absentee voter precinct may be assigned to work all or a portion of the time that the precinct is open on election day subject to the following conditions:

1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, are on duty at all times; and

2. No officer, political party representative, or other candidate representative shall leave the precinct after any ballots have been counted until the polls are closed and the count for the precinct is completed and reported.

F. G. The general registrar may provide that the central absentee voter precinct will open after 6:00 a.m. on the day of the election provided that the office of the general registrar will be open for the receipt of absentee ballots until the central absentee voter precinct is open and that the officers of election for the central absentee voter precinct obtain the absentee ballots returned to the general

674 registrar's office for the purpose of counting the absentee ballots at the central absentee voter precinct  
675 and provided further that the central absentee voter precinct is the same location as the office of the  
676 general registrar.

677 *2. § 1. That the Department of Elections shall enroll on the permanent absentee voter list pursuant to*  
678 *§ 24.2-703.1 of the Code of Virginia, as it shall become effective, each voter enrolled, on or before June*  
679 *30, 2021, on the special absentee voter applicant list pursuant to § 24.2-703.1 of the Code of Virginia,*  
680 *as it is currently effective, without any action necessary on the voter's part, unless the voter opts out of*  
681 *enrollment on the permanent absentee voter list. On or before July 1, 2021, the Department of Elections*  
682 *shall provide the means for a voter to opt out of being enrolled on the permanent absentee voter list.*  
683 *On or before July 1, 2021, the general registrars shall notify each voter enrolled on the special*  
684 *absentee voter applicant list that the voter will be enrolled on the permanent absentee voter list unless*  
685 *the voter so declines and shall provide instructions on how to do so.*