

HOUSE BILL NO. 46

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Ware)

A BILL to amend and reenact §§ 24.2-404, as it is currently effective and as it shall become effective, 24.2-411.3, 24.2-643, 24.2-653, 24.2-653.01, 24.2-701, 24.2-701.1, 24.2-709, and 24.2-709.1 of the Code of Virginia and to repeal § 24.2-703.1 of the Code of Virginia, relating to elections; voter identification containing a photograph required; availability of absentee voting in person; processing returned absentee ballots; permanent absentee voter list repealed.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-404, as it is currently effective and as it shall become effective, 24.2-411.3, 24.2-643, 24.2-653, 24.2-653.01, 24.2-701, 24.2-701.1, 24.2-709, and 24.2-709.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-404. (Effective until October 1, 2022) Duties of Department of Elections.**

A. The Department of Elections shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia voter registration system, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Department shall:

- 1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.
- 2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.
- 3. Provide to each general registrar (i) voter confirmation documents for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places and (ii) voter photo identification cards containing the voter's photograph and signature

27 for free for those voters who do not have one of the forms of identification specified in subsection B of §  
28 24.2-643. The Department shall promulgate rules and regulations authorizing each general registrar to  
29 obtain a photograph and signature of a voter who does not have one of the forms of identification specified  
30 in subsection B of § 24.2-643 for the purpose of providing such voter a voter photo identification card  
31 containing the voter's photograph and signature. The Department shall provide each general registrar with  
32 the equipment necessary to obtain a voter's signature and photograph, and no general registrar shall be  
33 required to purchase such equipment at his own expense. Photographs and signatures obtained by a general  
34 registrar shall be submitted to the Department. The Department may contract with an outside vendor for  
35 the production and distribution of voter photo identification cards.

36 4. Require the general registrars to delete from the record of registered voters the name of any  
37 voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due  
38 to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated,  
39 (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles  
40 pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the  
41 Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or  
42 (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later  
43 than 30 days after notification from the Department. The Department shall promptly provide the  
44 information referred to in this subdivision, upon receiving it, to general registrars.

45 5. Retain on the system for four years a separate record for registered voters whose names have  
46 been deleted, with the reason for deletion.

47 6. Retain on the system permanently a separate record for information received regarding deaths,  
48 felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

49 7. Provide to each general registrar, at least 16 days prior to a general or primary election and three  
50 days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a  
51 precinct in which the election is being held in the county, city, or town. These precinct lists shall be used  
52 as the official lists of qualified voters and shall constitute the pollbooks. The Department shall provide  
53 instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient

54 processing of voter lines at the polls. Prior to any general, primary, or special election, the Department  
55 shall provide any general registrar, upon his request, with a separate electronic list of all registered voters  
56 in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter  
57 registration inquiry devices are used in precincts in the locality, the Department shall provide a regional  
58 or statewide list of registered voters to the general registrar of the locality. The Department shall determine  
59 whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of  
60 registered voters shall include the day and month of birth of the voter, but shall include the voter's year of  
61 birth.

62 8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the  
63 Department.

64 9. Use any source of information that may assist in carrying out the purposes of this section. All  
65 agencies of the Commonwealth shall cooperate with the Department in procuring and exchanging  
66 identification information for the purpose of maintaining the voter registration system. The Department  
67 may share any information that it receives from another agency of the Commonwealth with any Chief  
68 Election Officer of another state for the maintenance of the voter registration system.

69 10. Cooperate with other states and jurisdictions to develop systems to compare voters, voter  
70 history, and voter registration lists to ensure the accuracy of the voter registration rolls, to identify voters  
71 whose addresses have changed, to prevent duplication of registration in more than one state or jurisdiction,  
72 and to determine eligibility of individuals to vote in Virginia.

73 11. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts  
74 and polling places, statements of election results by precinct, and any other items required of the  
75 Department by law. Receipts from such sales shall be credited to the Board for reimbursement of printing  
76 expenses.

77 B. The Department shall be authorized to provide for the production, distribution, and receipt of  
78 information and lists through the Virginia voter registration system by any appropriate means including,  
79 but not limited to, paper and electronic means. The Virginia Freedom of Information Act (§ 2.2-3700 et  
80 seq.) shall not apply to records about individuals maintained in this system.

81 C. The State Board shall institute procedures to ensure that each requirement of this section is  
82 fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice  
83 of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

84 D. The State Board shall promulgate rules and regulations to ensure the uniform application of the  
85 law for determining a person's residence.

86 E. The Department shall apply to participate in the Systematic Alien Verification for Entitlements  
87 Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S. Department  
88 of Homeland Security for the purposes of verifying that voters listed in the Virginia voter registration  
89 system are United States citizens. Upon approval of the application, the Department shall enter into any  
90 required memorandum of agreement with U.S. Citizenship and Immigration Services. The State Board  
91 shall promulgate rules and regulations governing the use of the immigration status and citizenship status  
92 information received from the SAVE Program.

93 F. The Department shall report annually by October 1 for the preceding 12 months ending August  
94 31 to the Committees on Privileges and Elections on each of its activities undertaken to maintain the  
95 Virginia voter registration system and the results of those activities. The Department's report shall be  
96 governed by the provisions of § 2.2-608 and shall encompass activities undertaken pursuant to  
97 subdivisions A 9 and 10 and subsection E and pursuant to §§ 24.2-404.3, 24.2-404.4, 24.2-408, 24.2-409,  
98 24.2-409.1, 24.2-410, 24.2-410.1, 24.2-427, and 24.2-428. This report shall contain the methodology used  
99 in gathering and analyzing the data. The Commissioner of Elections shall certify that the data included in  
100 the report is accurate and reliable.

101 **§ 24.2-404. (Effective October 1, 2022) Duties of Department of Elections.**

102 A. The Department of Elections shall provide for the continuing operation and maintenance of a  
103 central recordkeeping system, the Virginia voter registration system, for all voters registered in the  
104 Commonwealth.

105 In order to operate and maintain the system, the Department shall:

106 1. Maintain a complete, separate, and accurate record of all registered voters in the  
107 Commonwealth. Such system shall automatically register a person who has preregistered pursuant to §

108 24.2-403.1 upon that person becoming eligible for registration under § 24.2-403 or reaching 18 years of  
109 age, whichever comes first.

110 2. Require the general registrars to enter the names of all registered voters into the system and to  
111 change or correct registration records as necessary.

112 3. Provide to each general registrar (i) voter confirmation documents for newly registered voters,  
113 including voters who were automatically registered pursuant to subdivision 1, and for notice to registered  
114 voters on the system of changes and corrections in their registration records and polling places and (ii)  
115 voter photo identification cards containing the voter's photograph and signature for free for those voters  
116 who do not have one of the forms of identification specified in subsection B of § 24.2-643. The Department  
117 shall promulgate rules and regulations authorizing each general registrar to obtain a photograph and  
118 signature of a voter who does not have one of the forms of identification specified in subsection B of §  
119 24.2-643 for the purpose of providing such voter a voter photo identification card containing the voter's  
120 photograph and signature. The Department shall provide each general registrar with the equipment  
121 necessary to obtain a voter's signature and photograph, and no general registrar shall be required to  
122 purchase such equipment at his own expense. Photographs and signatures obtained by a general registrar  
123 shall be submitted to the Department. The Department may contract with an outside vendor for the  
124 production and distribution of voter photo identification cards.

125 4. Require the general registrars to delete from the record of registered voters the name of any  
126 voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due  
127 to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated,  
128 (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles  
129 pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the  
130 Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or  
131 (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later  
132 than 30 days after notification from the Department. The Department shall promptly provide the  
133 information referred to in this subdivision, upon receiving it, to general registrars.

134           5. Retain on the system for four years a separate record for registered voters whose names have  
135 been deleted, with the reason for deletion.

136           6. Retain on the system permanently a separate record for information received regarding deaths,  
137 felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

138           7. Provide to each general registrar, at least 16 days prior to a general or primary election and three  
139 days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a  
140 precinct in which the election is being held in the county, city, or town. These precinct lists shall be used  
141 as the official lists of qualified voters and shall constitute the pollbooks. The Department shall provide  
142 instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient  
143 processing of voter lines at the polls. Prior to any general, primary, or special election, the Department  
144 shall provide any general registrar, upon his request, with a separate electronic list of all registered voters  
145 in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter  
146 registration inquiry devices are used in precincts in the locality, the Department shall provide a regional  
147 or statewide list of registered voters to the general registrar of the locality. The Department shall determine  
148 whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of  
149 registered voters shall include the day and month of birth of the voter, but shall include the voter's year of  
150 birth.

151           8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the  
152 Department.

153           9. Use any source of information that may assist in carrying out the purposes of this section. All  
154 agencies of the Commonwealth shall cooperate with the Department in procuring and exchanging  
155 identification information for the purpose of maintaining the voter registration system. The Department  
156 may share any information that it receives from another agency of the Commonwealth with any Chief  
157 Election Officer of another state for the maintenance of the voter registration system.

158           10. Cooperate with other states and jurisdictions to develop systems to compare voters, voter  
159 history, and voter registration lists to ensure the accuracy of the voter registration rolls, to identify voters

160 whose addresses have changed, to prevent duplication of registration in more than one state or jurisdiction,  
161 and to determine eligibility of individuals to vote in Virginia.

162 11. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts  
163 and polling places, statements of election results by precinct, and any other items required of the  
164 Department by law. Receipts from such sales shall be credited to the Board for reimbursement of printing  
165 expenses.

166 B. The Department shall be authorized to provide for the production, distribution, and receipt of  
167 information and lists through the Virginia voter registration system by any appropriate means including,  
168 but not limited to, paper and electronic means. The Virginia Freedom of Information Act (§ 2.2-3700 et  
169 seq.) shall not apply to records about individuals maintained in this system.

170 C. The State Board shall institute procedures to ensure that each requirement of this section is  
171 fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice  
172 of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

173 D. The State Board shall promulgate rules and regulations to ensure the uniform application of the  
174 law for determining a person's residence.

175 E. The Department shall apply to participate in the Systematic Alien Verification for Entitlements  
176 Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S. Department  
177 of Homeland Security for the purposes of verifying that voters listed in the Virginia voter registration  
178 system are United States citizens. Upon approval of the application, the Department shall enter into any  
179 required memorandum of agreement with U.S. Citizenship and Immigration Services. The State Board  
180 shall promulgate rules and regulations governing the use of the immigration status and citizenship status  
181 information received from the SAVE Program.

182 F. The Department shall report annually by October 1 for the preceding 12 months ending August  
183 31 to the Committees on Privileges and Elections on each of its activities undertaken to maintain the  
184 Virginia voter registration system and the results of those activities. The Department's report shall be  
185 governed by the provisions of § 2.2-608 and shall encompass activities undertaken pursuant to  
186 subdivisions A 9 and 10 and subsection E and pursuant to §§ 24.2-404.3, 24.2-404.4, 24.2-408, 24.2-409,

187 24.2-409.1, 24.2-410, 24.2-410.1, 24.2-427, and 24.2-428. This report shall contain the methodology used  
188 in gathering and analyzing the data. The Commissioner of Elections shall certify that the data included in  
189 the report is accurate and reliable.

190 **§ 24.2-411.3. Registration of Department of Motor Vehicles customers.**

191 A. Each person coming into an office of the Department of Motor Vehicles or accessing its website  
192 in order to (i) apply for, replace, or renew a driver's license or other document issued under Chapter 3 (§  
193 46.2-300 et seq.) of Title 46.2 except driver privilege cards or permits issued pursuant to § 46.2-328.3 or  
194 identification privilege cards issued pursuant to § 46.2-345.3; or (ii) change an address on an existing  
195 driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 except driver  
196 privilege cards or permits issued pursuant to § 46.2-328.3 or identification privilege cards issued pursuant  
197 to § 46.2-345.3 shall be presented with (a) a question asking whether or not the person is a United States  
198 citizen and (b) the option to decline to have his information transmitted to the Department of Elections for  
199 voter registration purposes. The citizenship question and option to decline shall be accompanied by a  
200 statement that intentionally making a materially false statement during the transaction constitutes election  
201 fraud and is punishable under Virginia law as a felony.

202 The Department of Motor Vehicles may not transmit the information of any person who so  
203 declines. The Department of Motor Vehicles may not transmit the information of any person who indicates  
204 that he is not a United States citizen, nor may such person be asked any additional questions relevant to  
205 voter registration but not relevant to the purpose for which the person came to an office of the Department  
206 of Motor Vehicles or accessed its website.

207 B. For each person who does not select the option to decline to have his information transmitted  
208 to the Department of Elections for voter registration purposes and who has identified himself as a United  
209 States citizen, the Department of Motor Vehicles shall request any information as may be required by the  
210 State Board to ensure that the person meets all voter registration eligibility requirements.

211 C. The Department of Motor Vehicles shall electronically transmit to the Department of Elections,  
212 in accordance with the standards set by the State Board, the information collected pursuant to subsection  
213 B for any person who (i) has indicated that he is a United States citizen, (ii) has indicated that he is 17



214 years of age or older, and (iii) at the time of such transaction did not decline to have his information  
215 transmitted to the Department of Elections for voter registration purposes.

216 D. The Department of Elections shall use the information transmitted to determine whether a  
217 person already has a registration record in the voter registration system.

218 1. For any person who does not yet have a registration record in the voter registration system, the  
219 Department of Elections shall transmit the information to the appropriate general registrar. The general  
220 registrar shall accept or reject the registration of such person in accordance with the provisions of this  
221 chapter.

222 2. For any person who already has a registration record in the voter registration system, if the  
223 information indicates that the voter has moved within the Commonwealth, the Department of Elections  
224 shall transmit the information and the registration record to the appropriate general registrar, who shall  
225 treat such transmittal as a request for transfer and process it in accordance with the provisions of this  
226 chapter.

227 3. General registrars shall not register any person who does not satisfy all voter eligibility  
228 requirements.

229 E. The Department of Motor Vehicles shall provide assistance as required in providing voter photo  
230 identification cards as provided in subdivision A 3 of § 24.2-404.

231 **§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter**  
232 **identification.**

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

236 B. An officer of election shall ask the voter for his full name and current residence address and the  
237 voter may give such information orally or in writing. The officer of election shall verify with the voter his  
238 full name and address and shall repeat, in a voice audible to party and candidate representatives present,  
239 the full name provided by the voter. The officer shall ask the voter to present any one of the following  
240 forms of identification: (i) ~~his voter confirmation documents;~~ (ii) his valid Virginia driver's license, his

241 valid United States passport, or any other identification issued by the Commonwealth, one of its political  
242 subdivisions, or the United States, other than a driver privilege card issued under § 46.2-328.3 or an  
243 identification privilege card issued under § 46.2-345.3; ~~(iii)~~ (ii) any valid student identification card  
244 containing a photograph of the voter and issued by any institution of higher education located in the  
245 Commonwealth or any private school located in the Commonwealth; ~~(iv) any valid student identification~~  
246 ~~card containing a photograph of the voter and issued by any institution of higher education located in any~~  
247 ~~other state or territory of the United States; (v) or (iii)~~ any valid employee identification card containing a  
248 photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's  
249 business; or ~~(vi) a copy of a current utility bill, bank statement, government check, paycheck, or other~~  
250 ~~government document containing the name and address of the voter. The expiration date on a Virginia~~  
251 ~~driver's license shall not be considered when determining the validity of the driver's license offered for~~  
252 ~~purposes of this section.~~

253 ~~Except as provided in subsection E, any~~ Any voter who does not show one of the forms of  
254 identification specified in this subsection shall be ~~allowed to vote after signing a statement, subject to~~  
255 ~~felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter he~~  
256 ~~claims to be. A voter who requires assistance in voting by reason of a physical disability or an inability to~~  
257 ~~read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this~~  
258 ~~statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable~~  
259 ~~to sign shall be followed when assisting a voter in completing this statement. A voter who does not show~~  
260 ~~one of the forms of identification specified in this subsection and does not sign this statement shall be~~  
261 offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide  
262 an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral  
263 board other than matching submitted identification documents from the voter for the electoral board to  
264 make a determination on whether to count the ballot.

265 If the voter presents one of the forms of identification listed above, if his name is found on the  
266 pollbook in a form identical to or substantially similar to the name on the presented form of identification  
267 and the name provided by the voter, if he is qualified to vote in the election, and if no objection is made,

268 (a) an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number  
269 from the voter count form provided by the State Board; or shall enter that the voter has voted if the  
270 pollbook is in electronic form; (b) an officer shall provide the voter with the official ballot; and (c) another  
271 officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as  
272 present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling  
273 place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote  
274 forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room  
275 containing the voting booths and shall remain under observation by the officers of election.

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

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

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

291 ~~E. This subsection shall apply in the case of any individual who is required by subparagraph (b)~~  
292 ~~of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes~~  
293 ~~in a federal election in the state. At such election, such individual shall present (i) a current and valid photo~~  
294 ~~identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other~~

295 ~~government document that shows the name and address of the voter. Such individual who desires to vote~~  
296 ~~in person but does not show one of the forms of identification specified in this subsection shall be offered~~  
297 ~~a provisional ballot under the provisions of § 24.2-653. The identification requirements of subsection B~~  
298 ~~of this section and subsection A of § 24.2-653 shall not apply to such voter at such election. The~~  
299 ~~Department of Elections shall provide instructions to the electoral boards for the handling and counting~~  
300 ~~of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.~~

301 **§ 24.2-653. Provisional voting; procedures in polling place.**

302 A. Any person voting provisionally pursuant to subsection B of § 24.2-643, § 24.2-651.1,  
303 subsection B of § 24.2-652, or § 24.2-653.1 or 24.2-653.2 shall be given a printed ballot and provide,  
304 subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied  
305 by the Department of Elections, the identifying information required on the envelope, including the last  
306 four digits of his social security number, if any, full name including the maiden or any other prior legal  
307 name, date of birth, complete address, and signature. Such person shall be asked to present one of the  
308 forms of identification specified in subsection B of § 24.2-643. ~~If he is unable to present one of these~~  
309 ~~forms of identification, he shall sign a statement, subject to felony penalties for false statements pursuant~~  
310 ~~to § 24.2-1016, that he is the named registered voter he claims to be.~~ The officers of election shall note on  
311 the green envelope whether or not the voter has presented one of the specified forms of identification ~~or~~  
312 ~~signed the required statement in lieu of presenting one of the specified forms of identification.~~ The officers  
313 of election shall enter the appropriate information for the person in the precinct provisional ballots log in  
314 accordance with the instructions of the State Board but shall not enter a consecutive number for the voter  
315 on the pollbook nor otherwise mark his name as having voted.

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

319 B. An officer of election, by a written notice given to the voter, shall inform him that a  
320 determination of his right to vote shall be made by the electoral board and advise the voter of the beginning  
321 time and place for the board's meeting and of the voter's right to be present at that meeting. If the voter is

322 voting provisionally as required by § 24.2-643, an officer of election, by written notice given to the voter,  
323 shall also inform him that he may submit a copy of one of the forms of identification specified in  
324 subsection B of § 24.2-643 ~~or a statement, signed by him subject to felony penalties for false statements~~  
325 ~~pursuant to § 24.2-1016, that he is the named registered voter he claims to be~~ to the electoral board by  
326 facsimile, electronic mail, in-person submission, or timely United States Postal Service or commercial  
327 mail delivery, to be received by the electoral board no later than noon on the third day after the election.

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

334 **§ 24.2-653.01. Provisional ballots; electoral boards to make determination as to validity.**

335 A. The electoral board shall meet on the day following the election and determine whether each  
336 person having submitted a provisional vote pursuant to § 24.2-653 was entitled to do so as a qualified  
337 voter in the precinct in which he offered the provisional vote. In the case of persons voting provisionally  
338 pursuant to § 24.2-653.3, the electoral board shall determine of which district the person is a qualified  
339 voter. At the meeting, the voter may request an extension of the determination of the provisional vote in  
340 order to provide information to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-  
341 401. The electoral board shall have the authority to grant such extensions that it deems reasonable to  
342 determine the status of a provisional vote.

343 If the board is unable to determine the validity of all the provisional ballots offered in the election,  
344 or has granted any voter who has offered a provisional ballot an extension, the meeting shall stand  
345 adjourned, not to exceed seven calendar days from the date of the election, until the board has determined  
346 the validity of all provisional ballots offered in the election.

347 B. The electoral board shall permit one authorized representative of each political party or  
348 independent candidate in a general or special election or one authorized representative of each candidate

349 in a primary election to remain in the room in which the determination is being made as an observer so  
350 long as he does not participate in the proceedings and does not impede the orderly conduct of the  
351 determination. Each authorized representative shall be a qualified voter of any jurisdiction of the  
352 Commonwealth. Each representative, who is not himself a candidate or party chairman, shall present to  
353 the electoral board a written statement designating him to be a representative of the party or candidate and  
354 signed by the county or city chairman of his political party, the independent candidate, or the primary  
355 candidate, as appropriate. If the county or city chairman is unavailable to sign such a written designation,  
356 such a designation may be made by the state or district chairman of the political party. However, no written  
357 designation made by a state or district chairman shall take precedence over a written designation made by  
358 the county or city chairman. Such statement, bearing the chairman's or candidate's original signature, may  
359 be photocopied and such photocopy shall be as valid as if the copy had been signed.

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

365 C. If the electoral board determines that such person was not entitled to vote as a qualified voter  
366 in the precinct or district in which he offered the provisional vote, is unable to determine his right to vote,  
367 or has not been provided one of the forms of identification specified in subsection B of § 24.2-643, ~~or the~~  
368 ~~signed statement that the voter is the named registered voter he claims to be,~~ the envelope containing his  
369 ballot shall not be opened and his vote shall not be counted. The general registrar shall notify in writing  
370 pursuant to § 24.2-114 those persons found not properly registered or whose provisional vote was not  
371 counted.

372 The provisional vote shall be counted if (i) such person is entitled to vote in the precinct pursuant  
373 to § 24.2-401 or (ii) the Department of Elections or the voter presents proof that indicates the voter  
374 submitted an application for registration to a state-designated voter registration agency or the voter's  
375 information was transmitted by the Department of Motor Vehicles to the Department of Elections pursuant

376 to § 24.2-411.3 prior to the close of registration pursuant to § 24.2-416 and the registrar determines that  
377 the person was qualified for registration based upon the application for registration submitted by the  
378 person pursuant to subsection B of § 24.2-652.

379 If the electoral board determines that such person was entitled to vote, the name of the voter shall  
380 be entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and  
381 the ballot shall be placed in a ballot container without any inspection further than that provided for in §  
382 24.2-646.

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

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

392 **§ 24.2-701. Application for absentee ballot.**

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

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

398 Except as provided in § 24.2-703 ~~or 24.2-703.1~~, a separate application shall be completed for each  
399 election in which the applicant offers to vote. An application for an absentee ballot may be accepted the  
400 later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month  
401 prior to the election in which the applicant is applying to vote.

402 An application that is completed in person at the same time that the applicant registers to vote shall  
403 be held and processed no sooner than the fifth day after the date that the applicant registered to vote;  
404 however, this requirement shall not be applicable to any covered voter, as defined in § 24.2-452.

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

407 For the purposes of this chapter, the general registrar's office shall be open a minimum of eight  
408 hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately  
409 preceding all elections.

410 Unless the applicant is disabled, all applications for absentee ballots shall be signed by the  
411 applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016,  
412 that to the best of his knowledge and belief the facts contained in the application are true and correct and  
413 that he has not and will not vote in the election at any other place in Virginia or in any other state. If the  
414 applicant is unable to sign the application, a person assisting the applicant will note this fact on the  
415 applicant signature line and provide his signature, name, and address.

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

417 1. An application completed in person shall be completed only in the office of the general registrar  
418 and signed by the applicant in the presence of a registrar. The applicant shall provide one of the forms of  
419 identification specified in subsection B of § 24.2-643, ~~or if he is unable to present one of the specified~~  
420 ~~forms of identification listed in that subsection, he shall sign a statement, subject to felony penalties for~~  
421 ~~making false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be. An~~  
422 ~~applicant who requires assistance in voting by reason of a physical disability or an inability to read or~~  
423 ~~write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement~~  
424 ~~in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall~~  
425 ~~be followed when assisting a voter in completing this statement.~~ Any applicant who does not show one of  
426 the forms of identification specified in subsection B of § 24.2-643 ~~or does not sign this statement~~ shall be  
427 offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide



428 instructions to the general registrar for the handling and counting of such provisional ballots pursuant to  
429 § 24.2-653.01 and this section.

430 ~~This paragraph shall apply in the case of any individual who is required by subparagraph (b) of 52~~  
431 ~~U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes in a~~  
432 ~~federal election in the state. At such election, such individual shall present (i) a current and valid photo~~  
433 ~~identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other~~  
434 ~~government document that shows the name and address of the voter. Such individual who desires to vote~~  
435 ~~in person but does not show one of the forms of identification specified in this paragraph shall be offered~~  
436 ~~a provisional ballot under the provisions of § 24.2-653. The identification requirements of subsection B~~  
437 ~~of § 24.2-643 and subsection A of § 24.2-653 shall not apply to such voter at such election. The~~  
438 ~~Department of Elections shall provide instructions to the electoral boards for the handling and counting~~  
439 ~~of such provisional ballots pursuant to § 24.2-653.01 and this section.~~

440 2. Any other application may be made by mail, by electronic or telephonic transmission to a  
441 facsimile device if one is available to the office of the general registrar or to the office of the Department  
442 if a device is not available locally, or by other means. The application shall be on a form furnished by the  
443 registrar or as specified in subdivision 3. The application shall be made to the appropriate registrar no later  
444 than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote.

445 3. The application of any covered voter, as defined in § 24.2-452, may be on a federal postcard  
446 application, as defined in § 24.2-452. The federal postcard application may be accepted the later of (i) 12  
447 months before an election or (ii) the day following any election held in the twelfth month prior to the  
448 election in which the applicant is applying to vote.

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

450 1. The applicant's printed name and the last four digits of the applicant's social security number.  
451 However, an applicant completing the application in person shall not be required to provide the last four  
452 digits of his social security number;

453 2. A statement that he is registered in the county or city in which he offers to vote and his residence  
454 address in such county or city. Any person temporarily residing outside the United States shall provide

455 the last date of residency at his Virginia residence address, if that residence is no longer available to him.  
456 Any covered voter, as defined in § 24.2-452, who is not a registered voter may file the applications to  
457 register and for a ballot simultaneously; and

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

464 D. An application shall not be required for any registered voter appearing in person to cast an  
465 absentee ballot pursuant to § 24.2-701.1.

466 **§ 24.2-701.1. Absentee voting in person.**

467 A. Absentee voting in person shall be available on the ~~forty-fifth~~ twenty-first day prior to any  
468 election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election. In the case  
469 of a special election, excluding for federal offices, if time is insufficient between the issuance of the writ  
470 calling for the special election and the date of the special election, absentee voting in person shall be  
471 available as soon as possible after the issuance of the writ.

472 Any registered voter offering to vote absentee in person shall provide his name and his residence  
473 address in the county or city in which he is offering to vote. After verifying that the voter is a registered  
474 voter of that county or city, the general registrar shall enroll the voter's name and address on the absentee  
475 voter applicant list maintained pursuant to § 24.2-706.

476 ~~Except as provided in subsection F, a~~ A registered voter voting by absentee ballot in person shall  
477 provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show one  
478 of the forms of identification specified in subsection B of § 24.2-643, he shall be ~~allowed to vote after~~  
479 ~~signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the~~  
480 ~~named registered voter he claims to be. A voter who requires assistance in voting by reason of a physical~~  
481 ~~disability or an inability to read or write, and who requests assistance pursuant to § 24.2-649, may be~~

482 ~~assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649~~  
483 ~~regarding voters who are unable to sign shall be followed when assisting a voter in completing this~~  
484 ~~statement. A voter who does not show one of the forms of identification specified in this subsection or~~  
485 ~~does not sign this statement shall be offered a provisional ballot under the provisions of § 24.2-653. The~~  
486 State Board shall provide instructions to the general registrar for the handling and counting of such  
487 provisional ballots pursuant to § 24.2-653.01 and this section.

488 B. Absentee voting in person shall be available during regular business hours. The electoral board  
489 or general registrar may provide for extended hours for absentee voting in person. The electoral board of  
490 each county and city shall provide for absentee voting in person in the office of the general registrar or a  
491 voter satellite office established pursuant to § 24.2-701.2. For purposes of this chapter, such offices shall  
492 be open to the public a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first  
493 and second Saturday immediately preceding all elections. The electoral board or general registrar may  
494 provide for absentee voting in person in such offices on Sundays. Any applicant who is in line to cast his  
495 ballot when the office of the general registrar or voter satellite office closes shall be permitted to cast his  
496 absentee ballot that day.

497 C. The general registrar may provide for the casting of absentee ballots in person pursuant to this  
498 section on voting systems. The Department shall prescribe the procedures for use of voting systems. The  
499 procedures shall provide for absentee voting in person on voting systems that have been certified and are  
500 currently approved by the State Board. The procedures shall be applicable and uniformly applied by the  
501 Department to all localities using comparable voting systems.

502 D. At least two officers of election shall be present during all hours that absentee voting in person  
503 is available and shall represent the two major political parties, except in the case of a party primary, when  
504 they may represent the party conducting the primary. However, such requirement shall not apply when (i)  
505 voting systems that are being used pursuant to subsection C are located in the office of the general registrar  
506 or voter satellite office and (ii) the general registrar or an assistant registrar is present.

507 E. The Department shall include absentee ballots voted in person in its instructions for the  
508 preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.

509 ~~F. This subsection shall apply in the case of any individual who is required by subparagraph (b) of~~  
510 ~~52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes in~~  
511 ~~a federal election in the state. At such election, such individual shall present (i) a current and valid photo~~  
512 ~~identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other~~  
513 ~~government document that shows the name and address of the voter. Such individual who desires to vote~~  
514 ~~in person but who does not show one of the forms of identification specified in this subsection shall be~~  
515 ~~offered a provisional ballot under the provisions of § 24.2-653. The identification requirements of~~  
516 ~~subsection B of § 24.2-643 and subsection A of § 24.2-653 shall not apply to such voter at such election.~~  
517 ~~The Department of Elections shall provide instructions to the electoral boards for the handling and~~  
518 ~~counting of such provisional ballots pursuant to § 24.2-653.01 and this section.~~

519 **§ 24.2-709. Ballot to be returned in manner prescribed by law.**

520 A. Any ballot returned to the office of the general registrar or to a drop-off location in any manner  
521 except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar or to  
522 a drop-off location before the closing of the polls. Any voter who is in line to return an absentee ballot at  
523 a drop-off location by 7:00 p.m. on the day of the election shall be permitted to deposit his absentee ballot.  
524 The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration  
525 of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of  
526 delivery. No returned absentee ballot shall be deemed void because (a) the inner envelope containing the  
527 voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed  
528 or (b) it is not returned sealed in the outside envelope so long as it is returned sealed in the inner envelope.

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

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

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

548           **§ 24.2-709.1. Processing returned absentee ballots before election day; cure process.**

549           A. On receipt of an absentee ballot returned in person or by mail to the office of the general  
550 registrar or to a drop-off location before election day, the general registrar shall mark the date of receipt  
551 in the voter's record ~~and shall examine the ballot envelope to verify completion of the required voter~~  
552 ~~affirmation.~~ At least two officers of election, one representing each political party, shall examine the ballot  
553 envelope to verify completion of the required voter's material information. ~~A voter affirmation statement~~  
554 voter's material information shall not be deemed to be incomplete on the sole basis of the voter's failure  
555 to provide (i) his full name or his middle initial, as long as the voter provided his full first and last name,  
556 or (ii) the date, or any part of the date, including the year, on which he signed the statement.

557           B. ~~If the voter affirmation~~ voter's material information has been completed as required, ~~the general~~  
558 ~~registrar may open the sealed ballot envelope and insert the ballot in optical scan counting equipment or~~  
559 ~~other secure ballot container without initiating any ballot count totals. If a general registrar does not choose~~  
560 ~~to do so, the sealed ballot envelope shall be deposited into a secure container provided for such purpose,~~  
561 ~~in which it shall remain until the general registrar initiates the process of opening the sealed ballot~~

562 envelopes deposited into the secure container and inserting such ballots into optical scan counting  
563 equipment without initiating any ballot count totals the opened return envelope and the unopened sealed  
564 ballot envelope containing the ballot shall be sent to the central absentee voter precinct and held until the  
565 time that absentee ballots are processed and counted at the central absentee voter precinct. Such process  
566 shall be at the general registrar's discretion at any time prior to the seventh day immediately preceding the  
567 election but shall be mandatory beginning on the seventh day immediately preceding the election.

568 At least two officers of election, one representing each political party, shall be present during all  
569 hours when sealed ballot envelopes are opened as authorized in or required by this subsection. Only  
570 officers of elections shall be authorized to open sealed ballot envelopes. No person present while sealed  
571 ballot envelopes are opened and ballots are inserted into counting equipment shall disclose any  
572 information concerning the ballots.

573 Any location where sealed ballot envelopes are opened and ballots are extracted shall be deemed  
574 to be a central absentee voter precinct and shall be governed by the provisions of § 24.2-712. Officers of  
575 elections shall administer any and all central absentee voter precincts.

576 In the event that circumstances prevent a general registrar from complying with the provisions of  
577 this subsection, such failure shall not be grounds for contesting the election pursuant to Article 2 (§ 24.2-  
578 803 et seq.) of Chapter 8 and shall not invalidate the absentee ballots.

579 C. For any absentee ballot received by the Friday immediately preceding the day of the election,  
580 if the ~~general registrar finds~~ officers of election find during the examination of the ballot envelope that the  
581 ~~required voter affirmation~~ voter's material information was not correctly or completely filled out or that a  
582 procedure required by § 24.2-707 was not properly followed, and such error or failure would render the  
583 ballot void by law, the officers of election shall return the incorrect or incomplete return ballot envelope,  
584 with the sealed ballot envelope inside, to the general registrar, who shall enter into the voter's record in  
585 the voter registration system that the absentee ballot has an issue requiring correction in order for it to be  
586 counted. This information shall be included on any absentee voter applicant list provided pursuant to  
587 subsection C of § 24.2-710.

