

HOUSE BILL NO. 28

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

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

(Patron Prior to Substitute—Delegate Henson)

*A BILL to amend and reenact §§ 24.2-404, 24.2-427, and 24.2-428 of the Code of Virginia, relating to voter registration; regular periodic review of registration records; 90-day quiet period before all primary and general elections.*

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

**1. That §§ 24.2-404, 24.2-427, and 24.2-428 of the Code of Virginia are amended and reenacted as follows:**

## **§ 24.2-404. 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. Such system shall automatically register a person who has preregistered pursuant to § 24.2-403.1 upon that person becoming eligible for registration under § 24.2-403 or reaching 18 years of age, whichever comes first. Such system shall also assign a unique identifier to each voter registered in the system.

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 voter confirmation documents for newly registered voters, including voters who were automatically registered pursuant to subdivision 1, and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 60 days after

32 notification from the Department. The Department shall promptly provide the information referred to in this  
33 subdivision, upon receiving it, to general registrars.

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

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

38 7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days  
39 prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct  
40 in which the election is being held in the county, city, or town. These precinct lists shall be used as the  
41 official lists of qualified voters and shall constitute the pollbooks. The Department shall provide instructions  
42 for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of  
43 voter lines at the polls. Prior to any general, primary, or special election, the Department shall provide any  
44 general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's  
45 county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices  
46 are used in precincts in the locality, the Department shall provide a regional or statewide list of registered  
47 voters to the general registrar of the locality. The Department shall determine whether regional or statewide  
48 data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the  
49 day and month of birth of the voter, but shall include the voter's year of birth.

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

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

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

60 11. *Complete, not later than 90 days prior to the date of a primary or general election, any program the*

61 *purpose of which is to systematically remove the names of ineligible voters from the voter registration system*  
62 *based on evidence of ineligibility, including evidence of lack of eligible residence or evidence of*  
63 *noncitizenship. This restriction shall not be construed to preclude (i) the removal of names from the voter*  
64 *registration system at the request of the registrant or as provided by this chapter by reason of criminal*  
65 *conviction or mental incapacity or the death of the registrant if the triggering conviction, incapacity order, or*  
66 *death occurred within 120 days of the election or (ii) the correction of details, such as name and address, in*  
67 *a voter's registration record that does not result in the removal of a voter from the voter registration system.*  
68 *A program is systematic if voters are identified and placed into a process for potential removal based on a*  
69 *computerized data-matching process or any other non-individualized review of the voter registration records.*  
70 *The 90-day limitation applies to any program based on a third-party submission that is based on a systematic*  
71 *review of voters.*

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

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

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

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

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

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

99       **§ 24.2-427. Cancellation of registration by voter or for persons known to be deceased or disqualified  
100      to vote.**

101       A. Any registered voter may cancel his registration and have his name removed from the central  
102      registration records by signing an authorization for cancellation and mailing or otherwise submitting the  
103      signed authorization to the general registrar. When submitted by any means other than when notarized or in  
104      person, such cancellation must be made at least 22 days prior to an election in order to be valid in that  
105      election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or  
106      by first-class mail that his registration has been canceled within 10 days of receipt of such authorization.

107       B. The general registrar shall promptly cancel the registration of (i) all persons known by him to be  
108      deceased; (ii) all persons known by him to be disqualified to vote by reason of a felony conviction or  
109      adjudication of incapacity; (iii) all persons known by him not to be United States citizens by reason of reports  
110      from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based  
111      on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program)  
112      pursuant to subsection E of § 24.2-404 and in accordance with the requirements of subsection C; (iv) all  
113      persons for whom a notice has been received, signed by the voter, or from the registration official of another  
114      jurisdiction that the voter has moved from the Commonwealth; and (v) all persons for whom a notice has  
115      been received, signed by the voter, or from the registration official of another jurisdiction that the voter has  
116      registered to vote outside the Commonwealth, subsequent to his registration in Virginia. The notice received  
117      in clauses (iv) and (v) shall be considered as a written request from the voter to have his registration  
118      cancelled. A voter's registration may be cancelled at any time during the year in which the general registrar  
119      discovers that the person is no longer entitled to be registered. The general registrar shall provide notice of  
120      any cancellation to the person whose registration is cancelled, by mail to the address listed in the voter's  
121      registration record and by email to the email address provided on the voter's registration application, if one

122 was provided.

123 C. The general registrar shall mail notice promptly to all persons known by him not to be United States  
124 citizens by reason of a report from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the  
125 Department of Elections based on information received from the Systematic Alien Verification for  
126 Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404 prior to cancelling their  
127 registrations. Upon receiving a report from the Department of Motor Vehicles or from the Department of  
128 Elections indicating a person's noncitizen status, the general registrar shall review all the information he  
129 possesses related to such person. If the general registrar (i) has previously received affirmation that the  
130 person is a United States citizen after sending a prior notice of removal for reason of alleged noncitizenship  
131 or (ii) has any other evidence indicating that the person is a United States citizen, then the general registrar  
132 shall not send a notice of removal or remove such voter. If, after such review, the general registrar knows by  
133 reason of the report, and in the absence of any evidence to the contrary, that the person is not a United States  
134 citizen, then the general registrar shall promptly mail notice to such person prior to canceling his  
135 registration. The notice shall inform the person of the report from the Department of Motor Vehicles or from  
136 the Department of Elections and allow the person to submit his sworn statement that he is a United States  
137 citizen within 14 28 days of the date that the notice was mailed. *On the same day that the general registrar*  
138 *mails the notice, notice shall be sent to the email address provided on the person's voter registration*  
139 *application, if one was provided, and the general registrar shall attempt to contact the person using the*  
140 *telephone number provided on the person's voter registration application, if one was provided, which may*  
141 *include leaving a voicemail with or sending a text message to such person.* The general registrar shall cancel  
142 the registrations of such persons who do not respond within 14 28 days to the notice that they have been  
143 reported not to be United States citizens.

144 D. The general registrar shall (i) process the Department's most recent list of persons convicted of felonies  
145 within 21 to 14 days before any primary or general election, (ii) cancel the registration of any registered voter  
146 shown to have been convicted of a felony who has not provided evidence that his right to vote has been  
147 restored, and (iii) send prompt notice to the person of the cancellation of his registration. If it appears that any  
148 registered voter has made a false statement on his registration application with respect to his having been  
149 convicted of a felony, the general registrar shall report the fact to the attorney for the Commonwealth for  
150 prosecution under § 24.2-1016 for a false statement made on his registration application.

151 E. The general registrar may cancel the registration of any person for whom a notice has been submitted  
152 to the Department of Motor Vehicles in accordance with the Driver License Compact set out in Article 18

153 (§ 46.2-483 et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that the voter has moved  
154 from the Commonwealth; provided that the registrar shall mail notice of such cancellation to the person at  
155 both his new address, as reported to the Department of Motor Vehicles, and the address at which he had most  
156 recently been registered in Virginia. No general registrar may cancel registrations under this authority while  
157 the registration records are closed pursuant to § 24.2-416. No registrar may cancel the registration under this  
158 authority of any person entitled to register under the provisions of subsection A of § 24.2-420.1, and shall  
159 reinstate the registration of any otherwise qualified voter covered by subsection A of § 24.2-420.1 who  
160 applies to vote within four years of the date of cancellation.

161 **§ 24.2-428. Regular periodic review of registration records; notice to voters identified as having  
162 moved; placement on inactive status for failure to respond to notice.**

163 A. The Department of Elections shall establish a voter list maintenance program using the change of  
164 address information supplied by the United States Postal Service through its licensees or by other reliable  
165 sources to identify voters whose addresses may have changed. Any such program shall be regular and  
166 periodic and shall be conducted at least annually. ~~The program shall be completed not later than ninety days~~  
167 ~~prior to the date of a federal primary or federal general election.~~

168 B. If it appears from information provided by the Postal Service or by other reliable sources that a voter  
169 has moved to a different address in the same county or city in which the voter is currently registered, the  
170 Department shall provide to the general registrar the information necessary to change the registration records  
171 to show the new address, and the Department or the general registrar shall send to the new address of the  
172 voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by  
173 which the voter may verify or correct the address information.

174 C. If it appears from information provided by the Postal Service or by other reliable sources that a voter  
175 has moved to a different address not in the same county or city, the Department or the general registrar shall  
176 send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the  
177 Department, along with a postage prepaid and pre-addressed return card on which the voter may state his  
178 current address.

179 D. The registered voter shall complete and sign the return card subject to felony penalties for making false  
180 statements pursuant to § 24.2-1016.

181 E. The general registrar shall correct his registration records from the information obtained from the return  
182 card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction

183 within the Commonwealth, the general registrar shall transfer the registration record, along with the return  
184 card, to the appropriate general registrar who shall treat the request for a change of address as a request for  
185 transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to  
186 § 24.2-424. If the general registrar does not receive the return card provided for in subsection C of this  
187 section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive  
188 status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.