

HOUSE BILL NO. 493

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

on _____)

(Patron Prior to Substitute—Delegate Hope)

A BILL to amend and reenact §§ 24.2-103.2, 24.2-704, and 24.2-706 of the Code of Virginia, relating to elections; absentee voting; accessibility; ballots received, marked, and returned electronically through the internet.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-103.2, 24.2-704, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:

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

A. The Department shall make available to all localities a tool to allow a voter with a visual impairment or print disability or a covered voter, as defined in § 24.2-452, to ~~electronically and accessibly~~ receive and, mark, and return his absentee ballot ~~using screen reader assistive technology~~, to receive and complete any other required forms, and to provide any proof of identity electronically through the internet. The Department shall ensure the accessibility, as defined in § 2.2-3501, of such tool. The Department shall develop instructions regarding the use and availability of such tool, including instructions on making the tool available to voters and instructions for processing and counting ballots voted with such tool.

B. Such tool shall include a means for a voter to complete the following statement electronically through the internet:

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016 of the Code of Virginia, 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 subject ballot(s) electronically upon application to the registrar of such county or city; that I marked the ballot(s) 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 returned the ballot(s) through this electronic ballot marking and return tool; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter _____

Last four digits of voter's social security number _____

Voter's birth year _____

Date _____ "

Such tool shall include a means for 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.) to be completed electronically through the internet by voters who are qualified to vote absentee under that Act.

For purposes of properly completing this statement, the unique identifier assigned to the voter in the voter registration system pursuant to subdivision A 1 of § 24.2-404 shall be accepted in place of the last four digits of the voter's social security number for those voters whose registration includes a statement of affirmation that they have never been issued a social security number.

When this statement has been properly completed and signed by the registered voter, his ballot shall not be subject to challenge pursuant to § 24.2-651.

§ 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~~ for receiving, marking, and returning his ballot electronically through the internet made available pursuant to § 24.2-103.2. If the applicant opts to use such tool, the general registrar shall ensure the applicant receives access to such tool in accordance with instructions provided by the Department. If the applicant opts to use such tool to mark his ballot but not to return his ballot electronically through the internet, the general registrar shall send by mail to him 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. A ballot return 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.

An absentee voter using such tool shall ~~return the marked~~ mark and return his absentee ballot, complete any other required forms, and provide proof of identity 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 for receiving, marking, and returning his ballot through the internet* 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 person assisting him 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.

§ 24.2-706. 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.

94 B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an
95 offer by the applicant to vote in the election.

96 The general registrar shall note on each application received whether the applicant is or is not a registered
97 voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application
98 of any individual because of an error or omission on any record or paper relating to the application, if such
99 error or omission is not material in determining whether such individual is qualified to vote absentee.

100 C. If the application has been properly completed and signed and the applicant is a registered voter of the
101 precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the
102 election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of
103 either first-class or expedited mailing or delivery from the United States Postal Service or other commercial
104 delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing
105 else:

106 1. An envelope containing the folded ballot, sealed and marked "Ballot within."

107 2. An envelope for resealing the marked ballot, on which envelope is printed the following:

108 "Statement of Voter."

109 "I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016 *of the*
110 *Code of Virginia*, that my FULL NAME is (last, first, middle); that I am now or have been at some time since
111 last November's general election a legal resident of (STATE YOUR LEGAL RESIDENCE IN VIRGINIA
112 including the house number, street name or rural route address, city, zip code); that I received the enclosed
113 ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot
114 within' and marked the ballot(s), without assistance or knowledge on the part of anyone as to the manner in
115 which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the
116 ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or
117 place.

118 Signature of Voter _____

119 Last four digits of voter's social security number _____

120 Voter's birth year _____

121 Date _____ "

122 For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope
123 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.

For purposes of properly completing this statement, the unique identifier assigned to the voter in the voter registration system pursuant to subdivision A 1 of § 24.2-404 shall be accepted in place of the last four digits of the voter's social security number for those voters whose registration includes a statement of affirmation that they have never been issued a social security number.

When this statement has been properly completed and signed by the registered voter, his ballot shall not be subject to challenge pursuant to § 24.2-651.

3. 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. Whenever there is a proposed constitutional amendment or a statewide referendum to be voted on by the voters, these instructions shall also include the website address where the explanation of the proposed amendment prepared pursuant to § 30-19.9 or the information about the referendum prepared pursuant to § 30-19.10 is posted on the Department's website.

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.

154 D. The general registrar may contract with a third party for the printing, assembly, and mailing of the
155 items set forth in subsection C. The general registrar shall provide to the contractor in a timely manner the
156 names, addresses, precincts, and ballot styles of voters requesting an absentee ballot by mail. The vendor
157 shall provide to the general registrar a report of the voters to whom the absentee ballot materials have been
158 sent.

159 E. If the applicant completes his application in person under § 24.2-701 at a time when the printed ballots
160 for the election are available, he may request that the general registrar send to him by mail the items set forth
161 in subdivisions C 1 through 4, instead of casting the ballot in person. Such request shall be made no later than
162 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote, and the general
163 registrar shall send those items to the applicant by mail, obtaining a certificate or other evidence of mailing.

164 F. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time when the
165 printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in
166 person to the applicant in the office of the general registrar the items as set forth in subdivisions C 1 through
167 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be
168 required.

169 If the applicant requests that such items be sent by electronic transmission, the general registrar, at the
170 time when the printed ballots for the election are available but not later than the deadline set forth in
171 § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the
172 marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or
173 fax number of the office of the general registrar published on the Department of Elections website. The State
174 Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots
175 to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal
176 Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required
177 by this chapter.

178 *If the applicant requests to use the tool to receive, mark, and return his absentee ballot, complete any*
179 *other required forms, and provide proof of identity made available pursuant to § 24.2-103.2 electronically*
180 *through the internet, the general registrar, at the time when the printed ballots for the election are available*
181 *but not later than the deadline set forth in § 24.2-612, shall ensure the voter receives access to such tool in*
182 *accordance with instructions provided by the Department. A voter using such tool shall mark and return his*
183 *absentee ballot, complete any other required forms, and provide proof of identity in accordance with the*
184 *instructions provided by the Department.*

185 G. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section
186 upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in
187 the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the
188 campaign committee or the appropriate district political party chairman of such candidate. Any person who
189 fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent
190 shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

191 **2. That the provisions of this act shall become effective on January 1, 2028.**