

HOUSE BILL NO. 1534

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

on _____)

(Patron Prior to Substitute--Delegate Sickles)

A BILL to amend and reenact §§ 24.2-431, 24.2-504, 24.2-525, 24.2-652, and 24.2-706 of the Code of Virginia and to repeal §§ 24.2-429, 24.2-430, 24.2-432, 24.2-433, and 24.2-651 of the Code of Virginia, relating to elections; challenges to voter or voter's registration; challenges to candidate qualifications or eligibility.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-431, 24.2-504, 24.2-525, 24.2-652, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-431. Petition to court objecting to registration; notice to person objected to; decision of court; right of appeal.

~~In addition to challenging a voter's registration before the general registrar, any~~ A. Any three qualified voters may file with the circuit court of the county or city in which they are registered, a petition stating their objections to the registration of any person whose name is on the registration records for their county or city. However, no petition may be filed if the only objection raised is based on removal of residence from the precinct. In no event shall a petition be filed within 60 days of a primary or general election held in such county or city.

B. Fifteen days' notice shall be given by the petitioners to any person whose registration is objected to, and the court shall summarily proceed to determine the right of the person to registration. The determination shall be without the necessity of formal pleadings and in preference to all other matters on the docket. An order of the court concerning registration of the voter shall not be limited by the provisions of § 24.2-416 requiring the registration records to be closed.

26 C. From the judgment of the court, an appeal shall lie, as a matter of right, to the Court of Appeals.
27 The appeal shall be placed on the privileged docket and be heard by the next available panel of the court.

28 **§ 24.2-504. Persons entitled to have name printed on ballot; challenges.**

29 A. Only a person fulfilling all the requirements of a candidate shall have his name printed on the
30 ballot for the election. No person shall have his name printed on the ballot for more than one office at any
31 one election. However, a candidate for federal or statewide office, or a candidate for an office being filled
32 in a special election, may have his name printed on the ballot for two offices at an election.

33 B. Any challenge to a person's eligibility to have his name printed on the ballot on the basis that
34 such person failed to meet all qualifications or fulfill all requirements for candidacy shall be made at least
35 60 days before the day on which the election is to be held, except that a candidate who was nominated at
36 a primary election shall not be subject to a challenge on the basis of facts that were present prior to the
37 primary election and could have been raised in a challenge to such candidate's eligibility for the primary
38 ballot. Any such challenge shall be made by filing a petition with the Circuit Court of the City of
39 Richmond, which shall have jurisdiction over any such proceeding.

40 **§ 24.2-525. Persons entitled to have name printed on ballot; challenges.**

41 A. Only a person meeting all the qualifications and fulfilling all the requirements of a candidate,
42 and who has complied with the rules and regulations of his party, shall have his name printed on the ballot
43 provided for the primary election. A person who does not file either or both written statements required
44 by § 24.2-503 by the relevant deadline, or the end of the extension period if an extension has been granted
45 pursuant to that section, shall not have his name printed on the ballot provided for the primary election.

46 B. No person shall have his name printed on the ballot for more than one office at any one primary
47 election. However, a candidate for federal or statewide office, or a candidate for an office being filled in
48 a special election, may have his name printed on the ballot for two offices at a primary election.

49 C. Any challenge to a person's eligibility to have his name printed on the ballot on the basis that
50 such person failed to meet all qualifications or fulfill all requirements for candidacy shall be made at least
51 60 days before the date of the primary election. Any such challenge shall be made by filing a petition with
52 the Circuit Court of the City of Richmond, which shall have jurisdiction over any such proceeding.

53 **§ 24.2-652. Voter whose name erroneously omitted from pollbook; provisional ballots.**

54 A. When a person offers to vote and his name does not appear on the pollbook, the officers of
55 election shall permit him to vote only if all of the following conditions are met:

56 1. An officer of election is informed by the general registrar that the voter is registered to vote, that
57 his registration has not been cancelled, and that his name is erroneously omitted from the pollbook.

58 2. The voter signs a statement, subject to felony penalties for false statements pursuant to § 24.2-
59 1016, that he is a qualified and registered voter of that precinct, a resident of that precinct, and his
60 registration is not subject to cancellation pursuant to ~~§§ 24.2-430, § 24.2-431, and 24.2-432~~; and he
61 provides, subject to such penalties, all the information required to identify himself including the last four
62 digits of his social security number, if any, full name including the maiden or any other prior legal name,
63 birthdate, and complete address.

64 3. The officer of election enters the identifying information for the voter on the pollbook.

65 When the voter has signed the statement and is permitted to vote, the officers of election shall
66 mark his name on the pollbook with the next consecutive number from the voter count form, or shall enter
67 that the voter has voted if the pollbook is in electronic form, and shall indicate on the pollbook that he has
68 signed the required statement in accordance with the instructions of the State Board.

69 B. If the general registrar is not available or cannot state that the person is registered to vote, such
70 person shall be allowed to vote by provisional ballot pursuant to § 24.2-653. The officers of election shall
71 provide to him an application for registration. The State Board of Elections shall provide instructions to
72 the electoral boards for the handling and counting of such provisional ballots.

73 **§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

74 A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name
75 and address of each registered applicant on an absentee voter applicant list that shall be maintained in the
76 office of the general registrar with a file of the applications received. The list shall be available for
77 inspection and copying and the applications shall be available for inspection only by any registered voter
78 during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall
79 provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list

80 shall be used only for campaign and political purposes. Any list made available for inspection and copying
81 under this section shall contain the post office box address in lieu of the residence street address for any
82 individual who has furnished at the time of registration or subsequently, in addition to his street address,
83 a post office box address pursuant to subsection B of § 24.2-418.

84 No list or application containing an individual's social security number, or any part thereof, or the
85 individual's day and month of birth, shall be made available for inspection or copying by anyone. The
86 Department of Elections shall prescribe procedures for general registrars to make the information in the
87 lists and applications available in a manner that does not reveal social security numbers or parts thereof,
88 or an individual's day and month of birth.

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

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

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

- 102 1. An envelope containing the folded ballot, sealed and marked "Ballot within."
- 103 2. An envelope for resealing the marked ballot, on which envelope is printed the following:
104 "Statement of Voter."

105 "I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016,
106 that my FULL NAME is (last, first, middle); that I am now or have been at some time since last

107 November's general election a legal resident of (STATE YOUR LEGAL RESIDENCE IN VIRGINIA
 108 including the house number, street name or rural route address, city, zip code); that I received the enclosed
 109 ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot
 110 within' and marked the ballot(s), without assistance or knowledge on the part of anyone as to the manner
 111 in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed
 112 the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time
 113 or place.

114 Signature of Voter _____

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

116 Voter's birth year _____

117 Date _____ "

118 For elections held after January 1, 2004, instead of the envelope containing the above oath, an
 119 envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the
 120 Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters
 121 who are qualified to vote absentee under that Act.

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

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

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

130 4. Printed instructions for completing the ballot and statement on the envelope and returning the
 131 ballot. Such instructions shall include information on the sites of all drop-off locations in the county or
 132 city. Whenever there is a proposed constitutional amendment or a statewide referendum to be voted on by
 133 the voters, these instructions shall also include the website address where the explanation of the proposed

134 amendment prepared pursuant to § 30-19.9 or the information about the referendum prepared pursuant to
135 § 30-19.10 is posted on the Department's website.

136 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b)
137 of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter
138 votes in a federal election in the state, the printed instructions shall direct the voter to submit with his
139 ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank
140 statement, government check, paycheck or other government document that shows the name and address
141 of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of
142 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a
143 provisional ballot under the provisions of § 24.2-653.01. The Department of Elections shall provide
144 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to §
145 24.2-653.01 and this section.

146 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee
147 Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to
148 the voting rights and responsibilities for such citizens, or information provided by the registrar specific to
149 the status of the voter registration and absentee ballot application of such voter, may be included.

150 The envelopes and instructions shall be in the form prescribed by the Department of Elections.

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

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

160 and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other
161 evidence of mailing.

162 F. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time
163 when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or
164 deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions
165 C 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing
166 shall not be required. If the applicant requests that such items be sent by electronic transmission, the
167 general registrar, at the time when the printed ballots for the election are available but not later than the
168 deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the
169 envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using
170 the official email address or fax number of the office of the general registrar published on the Department
171 of Elections website. The State Board of Elections may prescribe by regulation the format of the email
172 address used for transmitting ballots to eligible voters. A general registrar may also use electronic
173 transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be
174 returned to the general registrar as otherwise required by this chapter.

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

181 **2. That §§ 24.2-429, 24.2-430, 24.2-432, 24.2-433, and 24.2-651 of the Code of Virginia are repealed.**

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