

## Federal

## Uniformed and Overseas Citizens Absentee Voting Act (52 USC § 20301 to 20311)

**§20302. State responsibilities****(a) In general**

Each State shall-

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;

(3) permit absent uniformed services voters and overseas voters to use Federal write-in absentee ballots (in accordance with section 20303 of this title) in general elections for Federal office;

(4) use the official post card form (prescribed under section 20301 of this title) for simultaneous voter registration application and absentee ballot application;

(5) if the State requires an oath or affirmation to accompany any document under this chapter, use the standard oath prescribed by the Presidential designee under section 20301(b)(7) of this title;

(6) in addition to any other method of registering to vote or applying for an absentee ballot in the State, establish procedures-

(A) for absent uniformed services voters and overseas voters to request by mail and electronically voter registration applications and absentee ballot applications with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (e);

(B) for States to send by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (A)) voter registration applications and absentee ballot applications requested under subparagraph (A) in accordance with subsection (e); and

(C) by which the absent uniformed services voter or overseas voter can designate whether the voter prefers that such voter registration application or absentee ballot application be transmitted by mail or electronically;

(7) in addition to any other method of transmitting blank absentee ballots in the State, establish procedures for transmitting by mail and electronically blank absentee ballots to absent uniformed services voters and overseas voters with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (f);

(8) transmit a validly requested absentee ballot to an absent uniformed services voter or overseas voter-

(A) except as provided in subsection (g), in the case in which the request is received at least 45 days before an election for Federal office, not later than 45 days before the election; and

(B) in the case in which the request is received less than 45 days before an election for Federal office-

(i) in accordance with State law; and

(ii) if practicable and as determined appropriate by the State, in a manner that expedites the transmission of such absentee ballot;

(9) if the State declares or otherwise holds a runoff election for Federal office, establish a written plan that provides absentee ballots are made available to absent uniformed services voters and overseas voters in manner that gives them sufficient time to vote in the runoff election;

(10) carry out section 20304(b)(1) of this title with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters; and

(11) report data on the number of absentee ballots transmitted and received under subsection (c) and such other data as the Presidential designee determines appropriate in accordance with the standards developed by the Presidential designee under section 20301(b)(11) of this title.

**(b) Designation of single State office to provide information on registration and absentee ballot procedures for all voters in State****(1) In general**

Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

**(2) Recommendation regarding use of office to accept and process materials**

Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State's duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

**(c) Report on number of absentee ballots transmitted and received**

Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002 [52 U.S.C. 20901 et seq.]) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.

**(d) Registration notification**

With respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection.

**(e) Designation of means of electronic communication for absent uniformed services voters and overseas voters to request and for States to send voter registration applications and absentee ballot applications, and for other purposes related to voting information****(1) In general**

Each State shall, in addition to the designation of a single State office under subsection (b), designate not less than 1 means of electronic communication-

(A) for use by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State to request voter registration applications and absentee ballot applications under subsection (a)(6);

(B) for use by States to send voter registration applications and absentee ballot applications requested under such subsection; and

(C) for the purpose of providing related voting, balloting, and election information to absent uniformed services voters and overseas voters.

**(2) Clarification regarding provision of multiple means of electronic communication**

A State may, in addition to the means of electronic communication so designated, provide multiple means of electronic communication to absent uniformed services voters and overseas voters, including a means of electronic communication for the appropriate jurisdiction of the State.

**(3) Inclusion of designated means of electronic communication with informational and instructional materials that accompany balloting materials**

Each State shall include a means of electronic communication so designated with all informational and instructional materials that accompany balloting materials sent by the State to absent uniformed services voters and overseas voters.

**(4) Availability and maintenance of online repository of State contact information**

The Federal Voting Assistance Program of the Department of Defense shall maintain and make available to the public an online repository of State contact information with respect to elections for Federal office, including the single State office designated under subsection (b) and the means of electronic communication designated under paragraph (1), to be used by absent uniformed services voters and overseas voters as a resource to send voter registration applications and absentee ballot applications to the appropriate jurisdiction in the State.

**(5) Transmission if no preference indicated**

In the case where an absent uniformed services voter or overseas voter does not designate a preference under subsection (a)(6)(C), the State shall transmit the voter registration application or absentee ballot application by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

**(6) Security and privacy protections****(A) Security protections**

To the extent practicable, States shall ensure that the procedures established under subsection (a)(6) protect the security and integrity of the voter registration and absentee ballot application request processes.

**(B) Privacy protections**

To the extent practicable, the procedures established under subsection (a)(6) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter who requests or is sent a voter registration application or absentee ballot application under such subsection is protected throughout the process of making such request or being sent such application.

**(f) Transmission of blank absentee ballots by mail and electronically****(1) In general**

Each State shall establish procedures-

(A) to transmit blank absentee ballots by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (B)) to absent uniformed services voters and overseas voters for an election for Federal office; and

(B) by which the absent uniformed services voter or overseas voter can designate whether the voter prefers that such blank absentee ballot be transmitted by mail or electronically.

**(2) Transmission if no preference indicated**

In the case where an absent uniformed services voter or overseas voter does not designate a preference under paragraph (1)(B), the State shall transmit the ballot by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

**(3) Security and privacy protections****(A) Security protections**

To the extent practicable, States shall ensure that the procedures established under subsection (a)(7) protect the security and integrity of absentee ballots.

**(B) Privacy protections**

To the extent practicable, the procedures established under subsection (a)(7) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter to whom a blank absentee ballot is transmitted under such subsection is protected throughout the process of such transmission.

**(g) Hardship exemption****(1) In general**

If the chief State election official determines that the State is unable to meet the requirement under subsection (a)(8)(A) with respect to an election for Federal office due to an undue hardship described in paragraph (2)(B), the chief State election official shall request that the Presidential designee grant a waiver to the State of the application of such subsection. Such request shall include-

- (A) a recognition that the purpose of such subsection is to allow absent uniformed services voters and overseas voters enough time to vote in an election for Federal office;
- (B) an explanation of the hardship that indicates why the State is unable to transmit absent uniformed services voters and overseas voters an absentee ballot in accordance with such subsection;
- (C) the number of days prior to the election for Federal office that the State requires absentee ballots be transmitted to absent uniformed services voters and overseas voters; and
- (D) a comprehensive plan to ensure that absent uniformed services voters and overseas voters are able to receive absentee ballots which they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office, which includes-
  - (i) the steps the State will undertake to ensure that absent uniformed services voters and overseas voters have time to receive, mark, and submit their ballots in time to have those ballots counted in the election;
  - (ii) why the plan provides absent uniformed services voters and overseas voters sufficient time to vote as a substitute for the requirements under such subsection; and
  - (iii) the underlying factual information which explains how the plan provides such sufficient time to vote as a substitute for such requirements.

**(2) Approval of waiver request**

After consulting with the Attorney General, the Presidential designee shall approve a waiver request under paragraph (1) if the Presidential designee determines each of the following requirements are met:

- (A) The comprehensive plan under subparagraph (D) of such paragraph provides absent uniformed services voters and overseas voters sufficient time to receive absentee ballots they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office.
- (B) One or more of the following issues creates an undue hardship for the State:
  - (i) The State's primary election date prohibits the State from complying with subsection (a)(8)(A).
  - (ii) The State has suffered a delay in generating ballots due to a legal contest.
  - (iii) The State Constitution prohibits the State from complying with such subsection.

**(3) Timing of waiver****(A) In general**

Except as provided under subparagraph (B), a State that requests a waiver under paragraph (1) shall submit to the Presidential designee the written waiver request not later than 90 days before the election for Federal office with respect to which the request is submitted. The Presidential designee shall approve or deny the waiver request not later than 65 days before such election.

**(B) Exception**

If a State requests a waiver under paragraph (1) as the result of an undue hardship described in paragraph (2)(B)(ii), the State shall submit to the Presidential designee the written waiver request as soon as practicable. The Presidential designee shall approve or deny the waiver request not later than 5 business days after the date on which the request is received.

**(4) Application of waiver**

A waiver approved under paragraph (2) shall only apply with respect to the election for Federal office for which the request was submitted. For each subsequent election for Federal office, the Presidential designee shall only approve a waiver if the State has submitted a request under paragraph (1) with respect to such election.

**(h) Tracking marked ballots**

The chief State election official, in coordination with local election jurisdictions, shall develop a free access system by which an absent uniformed services voter or overseas voter may determine whether the absentee ballot of the absent uniformed services voter or overseas voter has been received by the appropriate State election official.

**(i) Prohibiting refusal to accept applications for failure to meet certain requirements**

A State shall not refuse to accept and process any otherwise valid voter registration application or absentee ballot application (including the official post card form prescribed under section 20301 of this title) or marked absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

- (1) Notarization requirements.
- (2) Restrictions on paper type, including weight and size.
- (3) Restrictions on envelope type, including weight and size.

## §20303. Federal write-in absentee ballot in general elections for Federal office for absent uniformed services voters and overseas voters

**(a) In general****(1) Federal write-in absentee ballot**

The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States' absentee ballots.

**(2) Promotion and expansion of use of Federal write-in absentee ballots****(A) In general**

Not later than December 31, 2011, the Presidential designee shall adopt procedures to promote and expand the use of the Federal write-in absentee ballot as a back-up measure to vote in elections for Federal office.

**(B) Use of technology**

Under such procedures, the Presidential designee shall utilize technology to implement a system under which the absent uniformed services voter or overseas voter may-

- (i) enter the address of the voter or other information relevant in the appropriate jurisdiction of the State, and the system will generate a list of all candidates in the election for Federal office in that jurisdiction; and
- (ii) submit the marked Federal write-in absentee ballot by printing the ballot (including complete instructions for submitting the marked Federal write-in absentee ballot to the appropriate State election official and the mailing address of the single State office designated under section 20302(b) of this title).

**(C) Authorization of appropriations**

There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this paragraph.

**(b) Submission and processing**

Except as otherwise provided in this chapter, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an absent uniformed services voter or overseas voter shall not be counted-

- (1) in the case of a ballot submitted by an overseas voter who is not an absent uniformed services voter, if the ballot is submitted from any location in the United States;
- (2) if the application of the absent uniformed services voter or overseas voter for a State absentee ballot is received by the appropriate State election official after the later of-
  - (A) the deadline of the State for receipt of such application; or
  - (B) the date that is 30 days before the general election; or
- (3) if a State absentee ballot of the absent uniformed services voter or overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

**(c) Special rules**

The following rules shall apply with respect to Federal write-in absentee ballots:

- (1) In completing the ballot, the absent uniformed services voter or overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).
- (2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.
- (3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

**(d) Second ballot submission; instruction to absent uniformed services voter or overseas voter**

An absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

**(e) Use of approved State absentee ballot in place of Federal write-in absentee ballot**

The Federal write-in absentee ballot shall not be valid for use in a general, special, primary, or runoff election for Federal office if the State involved provides a State absentee ballot that-

- (1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and
- (2) is made available to absent uniformed services voters and overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

**(f) Prohibiting refusal to accept ballot for failure to meet certain requirements**

A State shall not refuse to accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

- (1) Notarization requirements.

- (2) Restrictions on paper type, including weight and size.
- (3) Restrictions on envelope type, including weight and size.

**(g) Certain States exempted**

A State is not required to permit use of the Federal write-in absentee ballot, if, on and after August 28, 1986, the State has in effect a law providing that-

- (1) a State absentee ballot is required to be available to any voter described in section 20310(5)(A) of this title at least 90 days before the general, special, primary, or runoff election for Federal office involved; and
- (2) a State absentee ballot is required to be available to any voter described in section 20310(5)(B) or (C) of this title, as soon as the official list of candidates in the general, special, primary, or runoff election for Federal office is complete.

## §20304. Procedures for collection and delivery of marked absentee ballots of absent overseas uniformed services voters

**(a) Establishment of procedures**

The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and the Federal write-in absentee ballot prescribed under section 20303 of this title, and for delivering such marked absentee ballots to the appropriate election officials.

**(b) Delivery to appropriate election officials****(1) In general**

Under the procedures established under this section, the Presidential designee shall implement procedures that facilitate the delivery of marked absentee ballots of absent overseas uniformed services voters for regularly scheduled general elections for Federal office to the appropriate election officials, in accordance with this section, not later than the date by which an absentee ballot must be received in order to be counted in the election.

**(2) Cooperation and coordination with the United States Postal Service**

The Presidential designee shall carry out this section in cooperation and coordination with the United States Postal Service, and shall provide expedited mail delivery service for all such marked absentee ballots of absent uniformed services voters that are collected on or before the deadline described in paragraph (3) and then transferred to the United States Postal Service.

**(3) Deadline described****(A) In general**

Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the seventh day preceding the date of the regularly scheduled general election for Federal office.

**(B) Authority to establish alternative deadline for certain locations**

If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish as an alternative deadline for that location the latest date occurring prior to the deadline described in subparagraph (A) which is sufficient to provide timely delivery of the ballot under paragraph (1).

**(4) No postage requirement**

In accordance with section 3406 of title 39, such marked absentee ballots and other balloting materials shall be carried free of postage.

**(5) Date of mailing**

Such marked absentee ballots shall be postmarked with a record of the date on which the ballot is mailed.

**(c) Outreach for absent overseas uniformed services voters on procedures**

The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in a regularly scheduled general election for Federal office to which this section applies of the procedures for the collection and delivery of marked absentee ballots established pursuant to this section, including the manner in which such voters may utilize such procedures for the submittal of marked absentee ballots pursuant to this section.

**(d) Absent overseas uniformed services voter defined**

In this section, the term "absent overseas uniformed services voter" means an overseas voter described in section 20310(5)(A) of this title.

**(e) Authorization of appropriations**

There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this section.

## CHAPTER 207—FEDERAL ELECTION RECORDS

### §20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

### §20702. Theft, destruction, concealment, mutilation, or alteration of records or papers; penalties

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 20701 of this title to be retained and preserved shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

## **§ 24.2-455. Role of Commissioner of Elections.**

A. The Commissioner of Elections is the state official responsible for implementing this chapter and Virginia's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301et seq.

B. The Commissioner shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots. The Commissioner may delegate the responsibility under this subsection only to the state office designated in compliance with § 102(b)(1) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 20302(b)(1).

C. The Commissioner shall coordinate with local electoral boards to establish an appropriate system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information under this chapter.

D. The Commissioner shall:

1. Develop standardized absentee-voting materials, including privacy and transmission envelopes, authentication materials, and voting instructions to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state; and

2. To the extent reasonably possible, coordinate with other states to carry out this subsection.

E. The Commissioner shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter. The Commissioner shall ensure that a form for the execution of the declaration, including an indication

of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

### **§ 24.2-457. Methods of registering to vote.**

A. To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application.

B. A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the applicable deadline for registration. If the declaration is received after that date, it must be treated as an application to register to vote for subsequent elections.

C. The electoral board shall ensure that the system described in subsection C of § [24.2-455](#) is capable of accepting both a federal postcard application and any other approved registration application sent to the appropriate election official. The voter may use the system or any other approved method to register to vote.

### **§ 24.2-458. Methods of applying for military-overseas ballot.**

A. A covered voter who is registered to vote in this state may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under Chapter 7 (§ [24.2-700](#) et seq.) or the federal postcard application.

B. A covered voter who is not registered to vote in this state may use a federal postcard application to apply simultaneously to register to vote under § [24.2-457](#) and for a military-overseas ballot.

C. The electoral board shall ensure that the system described in subsection C of § [24.2-455](#) is capable of accepting the submission of both a federal postcard application and any other approved military-overseas ballot application sent to the appropriate election official. The voter may use the system or any other approved method to apply for a military-overseas ballot.

D. A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot.

E. To receive the benefits of this chapter, a covered voter must inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:

1. The use of a federal postcard application or federal write-in absentee ballot;
2. The use of an overseas address on an approved voter registration application or ballot application; and
3. The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

F. This chapter does not preclude a covered voter from voting under Chapter 7 (§ [24.2-700](#) et seq.).

### **§ 24.2-459. Timeliness and scope of application for military-overseas ballot.**

An application for a military-overseas ballot is timely if received by the seventh day before the election or the last day for other voters in this state to apply for an absentee ballot for that election. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election.

### **§ 24.2-460. Transmission of unvoted ballots.**

A. For an election described in § [24.2-454](#) for which this state has not received a waiver pursuant to § 579 of the Military and Overseas Voter Empowerment Act, 52 U.S.C. § 20302(g)(2), not later than 45 days before the election, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.

B. A covered voter may request that a ballot and balloting materials be sent to the voter as authorized in § [24.2-706](#).

C. If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than three business days after the application arrives.

### **§ 24.2-461. Federal write-in absentee ballot.**

A covered voter may use a federal write-in absentee ballot to vote for all offices and ballot measures in an election described in § [24.2-454](#).

### **§ 24.2-462. Receipt of voted ballot.**

A valid military-overseas ballot must be counted if it is delivered to the address that the appropriate state or local election office has specified by the close of the polls on the date of the election except as provided in § [24.2-709](#).

### **§ 24.2-463. Declaration.**

A military-overseas ballot must include or be accompanied by a declaration signed by the voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of perjury under the laws of the United States or this state.

### **§ 24.2-464. Confirmation of receipt of application and voted ballot.**

The Commissioner, in coordination with local election officials, shall implement a free-access system by which a covered voter may determine whether:

1. The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and
2. The voter's military-overseas ballot has been received and the current status of the ballot.

### **§ 24.2-467. Prohibition of nonsubstantive requirements.**

A. If a voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted under this chapter. In a federal write-in absentee ballot authorized by this chapter, if the intention of the voter is discernible under this state's uniform definition of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party must be accepted as a valid vote.

B. Notarization is not required for the execution of a document under this chapter. An authentication, other than the declaration specified in § [24.2-463](#) or the declaration on

the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this chapter. The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.

### **§ 24.2-470. Relation to Electronic Signatures in Global and National Commerce Act.**

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. § 7001 (c), or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C. § 7003 (b).

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

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 of the listed applicants. 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 State Board 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 State Board of Elections shall prescribe procedures for local electoral boards and 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.

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

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

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

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."
2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

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

Signature of Voter .....

Date .....

Signature of witness ....."

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

3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

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](#). The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § [24.2-653](#) 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 State Board 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 State Board.

If the applicant makes his application to vote in person under § [24.2-701](#) at a time when the printed ballots for the election are available, the general registrar or the secretary of the electoral board, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the general registrar or the secretary of the electoral board. On the request of the

applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 to the applicant by mail, obtaining a certificate of mailing.

If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision 2 of § [24.2-700](#), the electoral board, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § [24.2-612](#) or deliver in person to the applicant in the office of the secretary or general registrar the items as set forth in subdivisions 1 through 4 and, if necessary, an application for registration. A certificate of mailing shall not be required. The electoral board, at the time when the printed ballots for the election are available, shall send by the deadline set forth in § [24.2-612](#) the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter by electronic transmission if the voter so requests. The voted ballot shall be returned to the electoral board as otherwise required by this chapter.

When the statement prescribed in subdivision 2 has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § [24.2-651](#).

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

### **§ 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.**

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ [24.2-644](#) and [24.2-646](#) without assistance and without making known how he marked the ballot, except as provided by § [24.2-704](#).

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board, and (e) seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral board or the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ [24.2-703.2](#) and [24.2-705](#).

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar or secretary of the electoral board, or at another location or locations in the county or city approved by the electoral board, before a registrar or a member of the electoral board, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar or secretary of the electoral board for the purpose of completing the application for an absentee ballot in person pursuant to §§ [24.2-701](#) and [24.2-706](#). On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 of § [24.2-706](#) to the applicant by mail, obtaining a certificate of mailing.

Failure to follow the procedures set forth above shall render the applicant's ballot void.

The electoral board of any county or city using a central absentee voting precinct may provide for the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The State Board shall prescribe procedures for the use of voting equipment. The procedures shall provide for the casting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the State Board. The procedures shall be applicable and uniformly applied by the State Board to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.

The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar or secretary of the electoral board and the general registrar, an assistant registrar, or the secretary of the electoral board is present.

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

A. If for any reason a person, who has applied for and received a ballot, decides not to vote absentee, he shall return the ballot unopened, in the sealed envelope in which it was sent to him, to the electoral board or the general registrar, before the day of the election in which the ballot was intended to be used.

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

polling place or central absentee voter precinct on election day and shall be entitled to vote a regular ballot, and his unused ballot shall be preserved with other unused ballots.

B. If for any reason a person who has applied for and has been sent an absentee ballot does not receive the ballot or loses the ballot, he shall be entitled to cast another ballot after presenting to the electoral board, registrar or officer of election a statement signed by him that he did not receive the ballot or has lost the ballot, subject to felony penalties for making false statements as pursuant to § [24.2-1016](#). If such person offers to vote at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote on the day of the elections, he shall be entitled to cast a provisional ballot pursuant to § [24.2-653.1](#).

C. If a person who has applied for and has been sent an absentee ballot has unintentionally or accidentally defaced and rendered the ballot unfit for voting, he shall be entitled to cast a ballot after presenting the defaced ballot to the electoral board, the general registrar, or an officer of election. The returned ballot shall be marked spoiled by the electoral board, the general registrar, or an officer of election and placed in a spoiled-ballot envelope to be retained with the ballots for the election. A voter who has returned his defaced ballot before the day of the election as provided herein shall be entitled to vote a regular ballot in person on election day at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote, upon confirmation by the electoral board, the general registrar, or an officer of election of the return of the defaced ballot. If the electoral board, the general registrar, or an officer of election is unable to confirm the return of the defaced ballot, the voter shall be entitled to cast a provisional ballot pursuant to § [24.2-653.1](#). A voter who returns his defaced or unfit ballot to his proper polling place or central absentee voter precinct on election day shall be entitled to vote a regular ballot, and his defaced or unfit ballot shall be preserved with other spoiled ballots.

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

A. Any ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the electoral board or general registrar before the closing of the polls. The board member or registrar receiving the ballot shall (i) seal the ballot in an envelope with the

statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § [24.2-612](#), and (iv) cast by an absentee voter who is eligible for an absentee ballot under subdivision 2 of § [24.2-700](#) shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

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

### **§ 24.2-709.1. Alternative procedures for counting absentee ballots.**

Each general registrar shall take one or more of the following measures as needed to expedite counting absentee ballots returned by mail before election day: (i) examine the ballot envelopes to verify completion of the required voter affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; or (iii) open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If the general registrar proceeds to open sealed ballot envelopes as provided in clause (iii), at least two officers of election, one representing each

political party, shall be present during all hours when a general registrar uses the expedited procedures authorized in this section. No person present while sealed ballot envelopes are opened and ballots are inserted into counting equipment or other secure ballot container pursuant to clause (iii) shall disclose any information concerning the ballots.

### **§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.**

On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election.

On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board. The general registrar shall make out a supplementary list containing the names of all persons voting absentee in person pursuant to §§ [24.2-705.1](#) and [24.2-705.2](#), or applying to vote absentee pursuant to § [24.2-705](#), for delivery by 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection upon request during regular office hours.

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

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

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

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

Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election pursuant to § [24.2-671](#), and has determined the validity of and counted all provisional ballots pursuant to § [24.2-653](#), at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

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

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

### **§ 24.2-711. Duties of officers of election.**

Before the polls open, the officers of election at each precinct shall mark, for each person on the absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on the pollbook. The pollbook may be so marked prior to election day by the general registrar, the secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or when the pollbook is produced by the State Board pursuant to § [24.2-404](#). If the pollbook has been marked

prior to election day, before the polls open the officers of election at each precinct shall check the marks for accuracy and make any additions or corrections required.

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

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

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

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

**\*§ 24.2-668. Pollbooks, statements of results, and ballots to be sealed and delivered to clerk or general registrar.**

A. After ascertaining the results and before adjourning, the officers shall put the pollbooks, the duplicate statements of results, and any printed inspection and return sheets in the envelopes provided by the State Board. The officers shall seal the

envelopes and direct them to the clerk of the circuit court for the county or city. The pollbooks, statements, and sheets thus sealed and directed, the sealed counted ballots envelope or container, and the unused, defaced, spoiled and set aside ballots properly accounted for, packaged and sealed, shall be conveyed by one of the officers to be determined by lot, if they cannot otherwise agree, to the clerk of court by noon on the day following the election.

The clerk shall retain custody of the pollbooks, paper ballots, and other elections materials until the time has expired for initiating a recount, contest, or other proceeding in which the pollbooks, paper ballots, and other elections materials may be needed as evidence and there is no proceeding pending. The clerk shall (i) secure all pollbooks, paper ballots and other election materials in sealed boxes; (ii) place all of the sealed boxes in a vault or room not open to the public or to anyone other than the clerk and his staff; (iii) cause such vault or room to be securely locked except when access is necessary for the clerk and his staff; and (iv) upon the initiation of a recount, certify that these security measures have been taken in whatever form is deemed appropriate by the chief judge.

After that time the clerk shall deliver the pollbooks to the general registrar who shall return the pollbooks or transfer a copy of the electronic data to the State Board as directed by § [24.2-114](#) for voting credit purposes. After the pollbooks are returned by the State Board, the general registrar shall retain the pollbooks in his principal office for two years from the date of the election. The clerk shall retain the statement of results and any printed inspection and return sheets for two years and may then destroy them.

B. The local electoral board may direct that the officers of election, in lieu of conveying the materials to the clerk of the circuit court as provided in subsection A of this section, shall convey the materials to the principal office of the general registrar on the night of the election or the morning following the election as the board directs. The general registrar shall secure and retain the materials in his office and shall convey to the clerk of the court, by noon of the day following the ascertainment of the results of the election by the electoral board, all of the election materials. The general registrar shall retain for public inspection one copy of the statement of results.

C. If an electronic pollbook is used, the data disc or cartridge containing the electronic records of the election, or, alternately, a printed copy of the pollbook records of those who voted, shall be transmitted, sealed and retained as required by this section, and otherwise treated as the pollbook for that election for all purposes subsequent to the

election. Nothing in this title shall be construed to require that the equipment or software used to produce the electronic pollbook be sealed or retained along with the pollbook, provided that the records for the election have been transferred or printed according to the instructions of the State Board.

**\*§ 24.2-669. Clerk to keep ballots; inspection; destruction.**

The clerk to whom the counted and uncounted ballots are delivered shall, without breaking the seal, deposit them in a secure place in his office, where they shall be kept for the time required by this section. He shall not allow the ballots to be inspected except (i) by an authorized representative of the State Board or by the electoral board at the direction of the State Board to ensure the accuracy of the returns or the purity of the election, (ii) by the officers of election, and then only at the direction of the electoral board in accordance with § [24.2-672](#) when the provisions of § [24.2-662](#) have not been followed, (iii) on the order of a court before which there is pending a proceeding for a contest or recount under Chapter 8 (§ [24.2-800](#) et seq.) of this title or before whom there is then pending a proceeding in which the ballots are necessary for use in evidence, or (iv) for the purpose of conducting an audit as part of a post-election pilot program pursuant to § [24.2-671](#).1. In the event that ballots are inspected under clause (i), (ii), or (iv) of this paragraph, each political party and each independent candidate on the ballot, or each primary candidate, shall be entitled to have a representative present during such inspection. The representatives and observers lawfully present shall be prohibited from interfering with the officers of election in any way. The State Board or local electoral board shall provide such parties and candidates reasonable advance notice of the inspection.

After the counted ballots for a federal election have remained in the clerk's office for two years, if no election contest or other proceeding is pending in which such ballots may be needed as evidence, the clerk shall destroy such ballots. After the counted ballots for any other election have remained in the clerk's office for one year, if no election contest or other proceeding is pending in which such ballots may be needed as evidence, the clerk shall destroy such ballots. After the unused ballots have remained in the clerk's office and the time has expired for initiating a recount, contest, or other proceeding in which such ballots may be needed as evidence and no such contest or proceeding is pending, the clerk may then destroy the unused ballots other than punchcard ballots, which shall be returned to the electoral board.

### **§ 24.2-711.1. Absentee ballots; confirmation of receipt; notice of reason for rejection.**

A. The Secretary, in coordination with local election officials, shall implement a free-access system by which a voter may determine:

1. Whether the voter's application for an absentee ballot has been received and accepted; and
2. Whether the voter's absentee ballot has been received and the current status of the absentee ballot.

B. The electoral board of each county and city shall send a written explanation of the reason for rejection of an absentee ballot to the voter whose absentee ballot is rejected within 90 days of the date on which the ballot is rejected. The State Board of Elections shall promulgate instructions to implement the provisions of this section.

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

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

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

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the electoral board on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct pursuant to § [24.2-710](#).

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

D. Absentee ballots may be processed as required by § [24.2-711](#) by the officers of election at the central absentee voter precinct prior to the closing of the polls but the ballot container shall not be opened and the counting of ballots shall not begin prior to that time. In the case of machine-readable ballots, the ballot container may be opened and the absentee ballots may be inserted in the counting machines prior to the closing of the polls in accordance with procedures prescribed by the State Board, including procedures to preserve ballot secrecy, but no ballot count totals shall be initiated prior to that time.

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

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

1. The chief officer and the assistant chief officer, appointed pursuant to § [24.2-115](#) to represent the two political parties, are on duty at all times; and
2. No officer, political party representative, or other candidate representative shall leave the precinct after any ballots have been counted until the polls are closed and the count for the precinct is completed and reported.

F. The electoral board, with the written agreement of the general registrar, may provide that the central absentee voter precinct will open after 6:00 a.m. on the day of the election provided that the office of the general registrar will be open for the receipt

of absentee ballots until the central absentee voter precinct is open and that the officers of election for the central absentee voter precinct obtain the absentee ballots returned to the general registrar's office for the purpose of counting the absentee ballots at the central absentee voter precinct and provided further that the central absentee voter precinct is the same location as the office of the general registrar.

### **§ 24.2-713. Emergency authority of the Commissioner of Elections.**

The provisions of this section shall apply in the case of an emergency that will not allow sufficient time for the distribution and handling of absentee ballot applications and absentee ballots, in accordance with the procedures of this title, for qualified voters who are unable to vote in person because of the emergency. The Commissioner of Elections shall have the authority to designate alternative methods and procedures to handle such applications and ballots. Nothing in this section shall authorize the counting of any absentee ballot returned after the polls have closed. For purposes of this section, "an emergency" shall mean (i) any emergency declared by the Governor pursuant to Chapter 3.2 (§ [44-146.13](#) et seq.) of Title 44, (ii) any emergency declared by the President of the United States or the governor of another state pursuant to law and confirmed by the Governor by the executive order as an emergency for the purposes of this section, or (iii) any public emergency that interferes with the electoral process or the opportunity for qualified voters to exercise their right to vote as determined by the Commissioner of Elections.

### **§ 24.2-1002.1. Unlawful disclosure or use of social security number or part thereof.**

Any person who discloses or makes any use of the social security number, or any part thereof, of any applicant for voter registration, except as authorized by law for official use, shall be guilty of a Class 5 felony.

### **§ 24.2-1004. Illegal voting and registrations.**

A. Any person who wrongfully deposits a ballot in the ballot container or casts a vote on any voting equipment, is guilty of a Class 1 misdemeanor.

B. Any person who intentionally (i) votes more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (ii) procures, assists, or induces another to vote more than once in the same election, whether those votes are cast in Virginia or in Virginia and any

other state or territory of the United States, (iii) votes knowing that he is not qualified to vote where and when the vote is to be given, or (iv) procures, assists, or induces another to vote knowing that such person is not qualified to vote where and when the vote is to be given is guilty of a Class 6 felony.

C. Any person who intentionally (i) registers to vote at more than one residence address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to register to vote at more than one address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who, when registering to vote, changing the address at which he is registered, transferring his registration, or assisting another in registering, changing his address, or transferring his registration, provides the information required by § [24.2-418](#) on the applicant's place of last previous registration to vote.

D. Nothing in this section shall be construed to prohibit a person entitled to vote absentee under subdivision 2 of § [24.2-700](#) from casting in the same election both a state ballot and a write-in absentee ballot that is processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.). If both ballots are received prior to the close of the polls on election day, the state ballot shall be counted.

### **§ 24.2-1009. Stealing or tampering with ballot containers, voting or registration equipment, software, records or documents.**

Any person who (i) steals or willfully, fraudulently, or wrongfully tampers with any part of any ballot container, voting or registration equipment, records, or documents, which are used in any way within the registration or election process, (ii) steals or willfully, fraudulently, or wrongfully tampers with the software used to prepare and operate voting equipment or the software or hardware used to collect and disseminate election returns, (iii) steals or willfully, fraudulently, or wrongfully tampers with an electronic activation device or electronic data storage medium of the type used to prepare, operate or back-up electronic voting equipment, (iv) willfully, fraudulently, or wrongfully intercepts, alters or disrupts the electronic transmission of election returns or the posting of returns on the Internet, (v) fraudulently makes any entry, deletion, or alteration to any item listed in (i), or (vi) aids, abets, or permits any other

person to violate the provisions of clauses (i) through (v), shall be guilty of a Class 5 felony.

### **§ 24.2-1010. Unauthorized possession or duplication of voting equipment key or electronic activation device.**

Any unauthorized person found in possession of any voting equipment key or electronic activation device of the type used to prepare or operate voting equipment or any unauthorized person who duplicates a voting equipment key or electronic activation device shall be guilty of a Class 1 misdemeanor.

### **§ 24.2-1011. Ballot not to be carried away.**

It shall be unlawful for any person to carry the official ballot furnished him by the officers of the election further than the voting booth, and should he, after receiving the ballot, conclude not to vote, he shall immediately return the ballot to the officers. Any person who (i) carries an official ballot or copy thereof beyond or away from the voting booth, except to the officers of election, or (ii) votes any ballot except the ballot received from the officers of election, shall be guilty of a Class 1 misdemeanor.

### **§ 24.2-1012. Offenses as to absent voters.**

Any person who knowingly aids or abets or attempts to aid or abet a violation of the absentee voting procedures prescribed in § [24.2-649](#) and Chapter 7 (§ [24.2-700](#) et seq.) shall be guilty of a Class 5 felony.

Any person attempting to vote by fraudulently signing the name of a qualified voter shall be guilty of forgery and shall be guilty of a Class 4 felony.

Any public official who knowingly violates any of the provisions of the law concerning absent voters and thereby aids in any way the illegal casting, or attempting to cast a vote, or who connives to nullify any provisions of this chapter in order that fraud may be perpetrated, shall forever be disqualified from holding office in the Commonwealth and shall forever be disqualified from exercising the right of franchise.

### **§ 59.1-480. Definitions.**

As used in this chapter:

- (1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.
- (2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.
- (3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
- (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
- (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (9) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.
- (10) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.
- (11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public body, public corporation, or any other legal or commercial entity.

(12) "Public body" shall have the same meaning as defined in § [2.2-3701](#) and shall also include locally elected constitutional officers, and anyone performing the duties of locally elected constitutional officers.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or an Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

## **§ 59.1-480. Definitions.**

As used in this chapter:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

- (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
- (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (9) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.
- (10) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.
- (11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public body, public corporation, or any other legal or commercial entity.
- (12) "Public body" shall have the same meaning as defined in § [2.2-3701](#) and shall also include locally elected constitutional officers, and anyone performing the duties of locally elected constitutional officers.
- (13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.
- (15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the

jurisdiction of the United States. The term includes an Indian tribe or band, or an Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

### **§ 59.1-484. Construction and application.**

This chapter shall be construed and applied to:

- (1) Facilitate electronic transactions consistent with other applicable law;
- (2) Be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) Effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

### **§ 59.1-485. Legal recognition of electronic records, electronic signatures, and electronic contracts.**

- (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- (c) If a law requires a record to be in writing, an electronic record satisfies the law.
- (d) If a law requires a signature, or provides for certain consequences in the absence of a signature, an electronic signature satisfies the law.

### **§ 59.1-495. Creation and retention of electronic records and conversion of written records by public bodies of the Commonwealth.**

Upon providing protection to preserve security and confidentiality, every public body of the Commonwealth may create and retain electronic records and convert written records to electronic records.

## **§ 59.1-496. Acceptance and distribution of electronic records by public bodies; electronic filing of information permitted.**

(a) Except as otherwise provided in subsection (f) of § [59.1-490](#), and upon providing protection to preserve security and confidentiality, public bodies of the Commonwealth may (i) accept the electronic filing of any information required or permitted to be filed with such public body and (ii) prescribe the methods of executing, recording, reproducing, and certifying electronically filed information pursuant to subsection (b). Unless otherwise provided for in the Code of Virginia, electronic filing in the courts of this Commonwealth shall be governed by the Rules adopted by the Supreme Court of Virginia.

(b) To the extent that public bodies of the Commonwealth use electronic records and electronic signatures and accept electronic filings under subsection (a), the following rules apply:

(1) Public bodies of the Commonwealth may specify the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(2) Public bodies of the Commonwealth may specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(3) Public bodies of the Commonwealth may specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(4) Public bodies of the Commonwealth may establish other criteria to ensure the authenticity and validity of electronic signatures.

(c) Except as otherwise provided in § [59.1-490](#) (f), this chapter does not require public bodies of the Commonwealth to use or permit the use of electronic records or signatures.

**§ 59.1-497. Interoperability.**

A public body of the Commonwealth which adopts standards pursuant to § [59.1-496](#) and the Secretary of Technology may encourage and promote consistency and interoperability with similar requirements adopted by other public bodies of the Commonwealth, other states and the federal government and nongovernmental persons interacting with public bodies of the Commonwealth. If appropriate, those standards may specify differing levels of standards from which public bodies of the Commonwealth may choose in implementing the most appropriate standard for a particular application.