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DEPARTMENT *of* ELECTIONS

2021 Changes to Virginia’s Election Laws

The following legislation was passed during the 2021 Session of the General Assembly, signed by the Governor, and will go into effect on July 1, 2021 (unless otherwise noted). This legislation is likely to affect the operations of general registrars, electoral board members, constituents, candidates, the Department of Elections (ELECT), and all who are part of the elections community.

The summaries were prepared by the Policy Division of ELECT. These are only summaries providing highlights of the legislation and are not intended to be a full accounting of the changes from every bill. Complete information on these bills is available on the [Legislative Information System \(http://lis.virginia.gov\)](http://lis.virginia.gov).

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Absentee Voting

[SB 1097 – Absentee Voting; witness signature not required.](#)

Effective date: July 1, 2021

This bill eliminates the requirement for voters to have a witness signature on absentee ballots for any election during a declared state of emergency related to a communicable disease of public health threat. The absence of a witness signature on an absentee ballot during a declared state of emergency will no longer be considered a material omission and the ballot will not be rendered void. A witness signature will still be required if there is not a declared state of emergency related to a communicable disease of public health threat. This bill also requires the Department of Elections to convene a work group to consider and evaluate alternatives to the witness signature requirement.

[SB 1239 – Absentee voting; third-party absentee.](#)

Effective date: July 1, 2021

This bill allows general registrars to contract with a third party for the printing, assembly, and mailing of absentee ballots. This bill also directs the State Board of Elections to adopt emergency regulations to implement the provisions of the bill, which will include processes to ensure secure and timely delivery of voter information to contractors and reports of mailed absentee ballots from contractors.



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[SB 1245 – Absentee voting; establishment of drop-off locations; ballot defects; cure process.](#)

Effective date: July 1, 2021

This bill includes the provisions of SB 1331 (below) and also codifies the establishment of drop-off locations, which the legislature put into place for the November 2020 General Election and for the June 2021 Primary Elections. Drop-off locations must be established at the office of the general registrar and each voter satellite office in a locality. General registrars have the option of establishing additional staffed or secure drop-off locations as well. On the day of any election, drop-off locations must be available at each polling place. Additionally, this bill creates a formalized cure process that allows voters to correct procedural errors on absentee envelopes. Once an error is discovered on a returned absentee ballot, the voter must be notified of the error within three (3) days, and be provided with information on how to cure their ballot. This bill also requires the Department of Elections to convene a work group to consider and evaluate sorting and reporting election results from absentee ballots separately by precinct.

[SB 1331 – Absentee voting; accessibility for voters with a visual impairment or print disability.](#)

Effective date: July 1, 2021

This bill allows voters with a visual impairment or print disability to electronically receive and mark an absentee ballot using a screen-assisted ballot making tool provided by the Department of Elections. These voters are still required to return physical copies of their ballots. General registrars are required to provide the voter with appropriate envelopes for the return of the ballot. One envelope will have to have a tactile marking that allows the voter to identify which envelope is the outer envelope when returning their ballot.

[HB 1888 – Absentee voting; procedural and process reforms, availability and accessibility reforms, penalty.](#)

Effective date: July 1, 2021

This bill includes the provisions of SB 1245 and SB 1331 (above), and adds various reforms to absentee voting processes and procedures. This bill removes the requirement for first-time voters who register by mail to vote in person on Election Day. These voters will still be subject to HAVA ID requirements in federal elections. General registrars must now report election results from absentee ballots that are cast early in person for an election separately from the results for all other absentee ballots cast. This bill mandates providing pre-paid postage for all absentee ballot return envelopes and removes the requirement for printing only on the flap side of envelopes that seal the marked ballot. This bill also allows for the authorization of an emergency absentee ballot for voters who cannot vote in person on Election Day due to the hospitalization, illness, or death of a loved one. Voters enrolled on the special absentee voter applicant list on or before June 30, 2021, will be automatically enrolled on the



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permanent absentee voter list under this bill. On or before July 1, general registrars will provide notice to each voter automatically enrolled with instructions on how to decline enrollment if preferred. Lastly, this bill reforms the process for individuals who have applied for and received an absentee ballot, but choose to not vote absentee on or before Election Day.

[HB 1968 – Absentee voting; early in person; availability on Sundays.](#)

Effective date: July 1, 2021

This bill allows the electoral board or general registrar of a locality to provide absentee voting in person in the office of the general registrar or voter satellite office on Sundays during the early voting period.

Campaigns and Campaign Finance

[SB 1444 – Campaign finance; special report for large pre-legislative session contributions.](#)

Effective date: July 1, 2021

This bill removes the requirement for a statewide office holder or member of the General Assembly to report pre-legislative session contributions on any subsequent campaign finance report, after the January 15 filing with the State Board. Previously, contributions of \$1,000 or more between January 1st and the day immediately before the 1st day of a regular session of the General Assembly were reported to the State Board by January 15, and were also included in the next regularly scheduled report.

Candidates and Parties

[HB 2020 – Nomination of candidates for elected offices; restrictions on nomination method selected.](#)

Effective date: January 1, 2024

This bill restricts political parties from selecting a candidate nomination method if it will have the practical effect of excluding participation in the nominating process by qualified voters who are unable to attend meetings for a variety of reasons. Those reasons include, but are not limited to, if the qualified voter is a member of a uniformed service on active duty, a student attending a school or institution of higher education, and a person with a disability.

Election Day Procedures

[SB 1111 – Elections; preservation of order at the polls, powers of officers of election.](#)

Effective date: July 1, 2021

This bill removes the power of officers of election to appoint an individual who is not a law-enforcement officer to have all the powers of a law-enforcement officer within the polling place and the prohibited area.



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[SB 1157 – Municipal elections; shifting elections to November.](#)

Effective date: July 1, 2021

This bill requires municipalities who currently hold general elections in May to move their election to November. The bill is silent as to which November the municipality may choose. It also requires that terms of elected officials cannot be shortened in order to enact the change.

[SB 1148 – Elections; date of June primary election.](#)

Effective date: January 1, 2022

This bill changes the date for primary elections from the second Tuesday in June to the third Tuesday in June. This bill also changes the deadline for filing nomination and candidacy papers for an office determined by a November general election from the 2nd Tuesday to the 3rd Tuesday in June.

[HB 1921 – Assistance for certain voters; curbside voting.](#)

Effective date: July 1, 2021

This bill expands curbside voting by allowing any voter to use curbside voting during a declared state of emergency related to a communicable disease of public health threat. Generally, only individuals 65 years or older or those with a physical disability are eligible. This bill also clarifies “physical disability” to include permanent physical disability, temporary physical disability, or injury. The Department of Elections is required to prescribe the form and content of instructions on how to notify an officer of election of a voter’s request to use curbside voting. The instructions must be prominently displayed outside of the polling place.

[HB 2081 – Polling places; prohibited activities, unlawful possession of a firearm, penalty.](#)

Effective date: July 1, 2021

This bill prohibits any person from knowingly possessing a firearm within 40 feet of any building used as a polling place, including one hour before and one hour after its use as a polling place. The exceptions to this provision apply to qualified law-enforcement officer or retired law-enforcement officer, any person occupying his own private property that falls within 40 feet of the polling place, or a licensed armed security officer whose employment or performance of his duties occurs within 40 feet of the polling place. This bill also prohibits any person from knowingly possessing a firearm within 40 feet of a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election or any place used as the setting for a recount.

[HB 2198 – Local elections for governing bodies; elections for school boards, qualification of voters.](#)

Effective date: January 1, 2022



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This bill requires localities that impose district-based or ward-based residency requirements for members of a governing body or school board, to restrict the election of those candidates to the qualified voters of that district or ward and not by the locality at large. Prior to this legislation, localities could utilize at-large voting for candidates of specific districts or wards.

Election Officers

[SB 1281 – General registrar; qualifications, residency.](#)

Effective date: July 1, 2021

This bill allows localities with a population of less than 50,000 to appoint a general registrar who is a citizen of the Commonwealth instead of a citizen of the locality. Previously, a general registrar could only be appointed for a locality if they were a resident of that locality or an adjacent locality unless the locality has a population of less than 25,000.

Voter Registration

[HB 1810 – Voter registration; failure of online voter registration system, deadline extension.](#)

Effective date: July 1, 2021

This bill grants authority to the Governor of Virginia to extend the voter registration deadline in the event that a failure of the Virginia online voter registration system occurs prior to the close of registration records. The extended time will be equal to the amount of time during which the online voter registration system was unavailable for registration activities, rounded up to the nearest whole day, plus an additional day to allow for voter education efforts.

[HB 2125 – Voter registration; preregistration for persons 16 years of age or older, effective date.](#)

Effective date: October 1, 2022

This bill permits voter preregistration for Virginia citizens who are 16 years of age or older and are otherwise qualified to register to vote. Preregistration does not allow any individual to vote in an election before the time already permitted by law. The Department of Elections will set up a process in its voter registration and election management database that will allow the General Registrar to approve the preregistration application, and for it to make the pre-registrant an active voter at the appropriate time.



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Voting Rights

[HB 1890 and SB 1395 – Elections; prohibited discrimination in voting and elections administration; required process for enacting certain covered practices; civil causes of action.](#)

Effective date: September 1, 2021

This bill is modeled after the Federal Voting Rights Act of 1965. This bill requires local governing bodies to present any proposed changes to a “covered practice” in advance for public comment for a minimum of 30 days, with a 30-day waiting period following the public comment. In addition to receiving public comment, the governing body is required to conduct at least one public hearing during this period. As defined by this bill, covered practices are:

- Any change to the method of election of members of a governing body or an elected school board by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district.
- Any change, or series of changes within a 12-month period, to the boundaries of a locality that reduces by more than five percentage points the proportion of the locality's voting age population that is composed of members of a single racial or language minority group.
- Any change to the boundaries of election districts or wards in the locality.
- Any change that limits or impairs the creation or distribution of voting and election materials in any language other than English, or restricts the ability of any person to provide interpreter services to voters in any language other than English.
- Any change that reduces, consolidates, or relocates polling places in the covered locality, except where permitted in the event of emergency.

In lieu of a public comment period, a governing body can submit a proposed covered practice to the Office of the Attorney General to receive a certification of no objection. The certification of no objection indicates the covered practice does not have the “purpose or effect of denying or abridging the right to vote based on race or color or membership in a language minority group.”

This bill allows Virginia voters or the attorney general to file a lawsuit if a locality or local official violates election laws. Fees or fines that are won in the lawsuit will go a Voter Education and Outreach Fund established by the legislation, solely to be used for the purpose of educating current and potential voters on their voting rights