

# Election Statute Navigator: Virginia

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of March 1, 2021. Please contact [elect@wm.edu](mailto:elect@wm.edu) with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link:

<https://ebenchmark.org/virginia/covid/#tracker>.

## Voter Registration

- Voters (other than above) register prior to Election Day – [§ 24.2-416](#)
  - 21 days before primary or election
  - Rules for special elections also found in this section; they differ slightly depending on type of special election and timing
- Online registration available – [§ 24.2-416.7](#)
- Registration via mail available – [§ 24.2-416.1](#)
- In-Person registration available – [§ 24.2-411.2](#)
  - Department of Motor Vehicles – [§ 24.2-411.3](#)
  - Other locations as described in – [§ 24.2-411.2](#)
- Automatic Voter Registration – [§ 24.2-411.3](#)
  - Participating Agencies: Department of Motor Vehicles
- Preregistration allowed – [§ 24.2-403](#)
- Residency requirement – [§ 24.2-101](#) (defining “residence”)
  - See [§ 24.2-417.1](#) for certain specific cases
- Prior conviction eligibility – See state code for specifics:
  - [§ 24.2-101](#) – (defining “Qualified voter”)
  - Right may be restored by governor
  - [§ 24.2-427](#) – (cancellation of voter registration for those who become disqualified)
- Voters judged mentally incompetent or under guardianship for a mental disability cannot vote [§ 24.2-101](#) (defining “Qualified voter”)
- Voter list maintenance guidelines [§ 24.2-444](#) (general rules)
  - Removal for Various Reasons – [§ 24.2-428](#)
  - Death – [§ 24.2-408](#)
  - Conviction – [§ 24.2-409](#)
  - General – [§ 24.2-427](#); [§ 24.2-428.1](#)

## State Absentee, Early, and Mail Voting

- Early voting allowed (called In Person Absentee Voting) – [§ 24.2-701.1](#)
  - NOTE: Effective beginning with the 2020 General Election

- Beginning: 45 Days before election for voters with a valid excuse; on the second Saturday before the election for all other voters
- Ending: Saturday immediately before the election
- No-excuse absentee voting – [§ 24.2-700](#)
- Online absentee ballot application available – [§ 24.2-701](#)
- Absentee ballot application is verified – [§ 24.2-706](#)
- Permanent absentee voting options
  - Members of the Military – [§ 24.2-703](#)
  - Absentee Ballots for One Calendar Year – [§ 24.2-703.1](#)
  - NOTE: This changes to a permanent absentee voter option on July 1, 2021
- Removal from permanent absentee list – [§ 24.2-703.1\(D\)](#)
  - NOTE: Only applicable beginning July 1, 2021
- Copy of Voter ID required with absentee ballot – [§ 24.2-706\(B\)\(4\)](#)
  - NOTE: ID is only needed if voting for first time and ID was not provided upon registration
- Notary or witness signatures required on return envelope – [§ 24.2-707](#)
- Absentee ballot verification details – [§ 24.2-711.1](#)
- Someone other than the voter can return an absentee or mail ballot on behalf of the voter – [§ 24.2-705](#)
  - NOTE: for emergencies only
- Deadline by which election official must receive absentee/mailed ballots – [§ 24.2-709](#)
  - Before polls close on election day
- State accepts postmarked ballots that arrive after election day – [§ 24.2-709\(B\)](#)
- State is required to provide secrecy sleeve for absentee/mail ballot – [§ 24.2-706](#)
- Absentee/Mail ballot processing and counting procedures
  - Processing – [§ 24.2-709.1](#)
  - Counting – [§ 24.2-712](#)
- Absentee ballots are reported separately from precinct totals – [§ 24.2-712](#)
- Spoiling/Replacement/Correction ballot restrictions
  - Only available for certain disabled or ill voters – [§ 24.2-703.2](#)

## In-Person Voter ID

- Photo ID requirements – [§ 24.2-643\(B\)](#)
- Options for voters without ID – [§ 24.2-643\(B\)](#)
  - May vote with regular ballot as long as they sign statement confirming their identity

## Provisional Voting

- Provisional ballot availability – [§ 24.2-653](#)
  - Voter shown as having already voted – [§ 24.2-651.1](#)

- Voter's name erroneously omitted – [§ 24.2-652](#)
- Voters who did not receive absentee ballots – [§ 24.2-653.1](#)
- Ballot cast after normal poll hours due to court-ordered extension – [§ 24.2-653.2](#)
- Voter assigned to split precinct – [§ 24.2-653.3](#)
- Time allotted to determine the status of provisional ballot – [§ 24.2-653.01\(A\)](#)
  - Seven calendar days after election
- Provisional ballot rejection reasons – [§ 24.2-653.01\(C\)](#)
- Method for informing voters whether provisional vote was counted – [§ 24.2-653.01\(C\)](#)

## Polling Place

- Polling Place availability and requirements – [§ 24.2-310](#)
- Electioneering or campaigning must not be closer than 40 feet to the entrance of the polling place – [§ 24.2-604\(A\)](#)
- Rules governing poll observers – [§ 24.2-604.5](#)
- Poll watcher qualifications – [§ 24.2-604.4](#)
- National Guard permitted to step in as election officials – [§ 24.2-115](#)
  - NOTE: qualifications do not prohibit National Guard members
- Curbside voting – [§ 24.2-649\(A\)](#)
- Police presence – [§ 24.2-607](#)
  - NOTE: this provision allows election officials to call police to make arrests at the precincts

## State Emergency Rules and How Elections are Affected

- Governor has authority to set rules and procedures (after declaring “election emergency”) – [§ 24.2-603.1](#)
- Listed triggers for Emergency Rules – [§ 24.2-603.1](#)
  - If a state of emergency is declared by the Governor or President of the United States
- Explicit remedies in election statute – [§ 24.2-604.2](#)
  - Electoral board may modify various distance prohibitions if due to unsafe area
  - Alternate election cite needed – [§ 24.2-310\(D\)](#)
- All can vote by absentee ballot in state of emergency – [§ 24.2-713](#)
  - Allows for some change to absentee ballot process in emergencies
  - Now that VA has no excuse absentee voting, anyone could vote absentee anytime

## Counting Rules

- Voting system requirements – [§ 24.2-626](#); [§ 24.2-627](#); [§ 24.2-638](#)
- Counting procedures – [§ 24.2-654](#)
  - Paper Ballots – [§ 24.2-655](#)

## Contest/Protest, Recount Rules

- Contest filing guidelines
  - General Assembly Elections – [§ 24.2-803](#)
  - Governor, Lieutenant Governor, and Attorney General Elections – [§ 24.2-804](#)
  - Presidential Electors, Primaries for US Senate or Statewide Officers Elections – [§ 24.2-805](#)
  - Other Primaries and Elections – [§ 24.2-806](#)
- Challenging a voter – [§ 24.2-431](#)
- Contest/Protest recount – [§ 24.2-800](#)
  - Difference between winner and challenger must not be more than 1% of total votes cast
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