



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

OFFICIAL GUIDANCE

DATE: October 18, 2018

RE: Absentee Voting for First Time, Including Incarcerated Voters

In response to requests from members of the Virginia Election Community, the Department is issuing supplemental guidance to ensure that your offices are equipped to handle any potential issues that may arise with requests for absentee ballots by incarcerated voters who are voting for the first time.

It is the view of the Department of Elections that first time voters who registered by mail are not required to vote in person, but may, instead, vote by absentee ballot returned by mail provided that they comply with the provisions of the Help America Vote Act by including (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. Specifically, HAVA acknowledges the National Voter Registration Act (and its allowance of requiring voting in person) but makes clear that regardless of the provisions included within the NVRA, a first time voter may, indeed, vote by mailed absentee ballot so long as the voter includes with his/her ballot a copy of a current and valid photo identification, or 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. As Va. Code § 24.2- 416.1(B) clearly provides for an exception to its requirements through federal preemption, the proscribed HAVA process for voting by mail takes precedence.