



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1878

(Patron – Cosgrove)

LD #: 09-5586806

Date: 1/14/2009

Topic: Election law clarifications and revisions

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
Cannot be determined (likely to be small)
- **Local Adult Correctional Facilities:**  
Cannot be determined (likely to be small)
- **Adult Community Corrections Programs:**  
Cannot be determined (likely to be small)

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

#### Summary of Proposed Legislation:

The proposal amends numerous sections of the *Code* to clarify and revise existing election laws.

- The definition of domicile for the purposes of establishing residency for voter registration is narrowed (§ 24.2-101) and the State Board of Elections is to develop guidelines for determining a person's residence (§ 24.2-404);
- The duty of the registrar to notify each registered voter regarding changes in his precinct or polling place is expanded to include notification by e-mail and telephone, if such information is available, in addition to the current mail notification (§§ 24.2-114 and 24.1-424);
- The local electoral board will have to designate at least one election officer for each precinct to serve as the closing official who will be responsible for reporting the precinct results (§§ 24.2-115 and 24.2-115.1);
- The maximum number of registered voters allowed per precinct is lowered from 5,000 to 3,500 (§ 24.2-307), effective July 1, 2011;
- A qualified voter shall be permitted to enter a polling place and vote while wearing clothing, buttons, or stickers bearing a candidate's name or political message, as long as he makes no active or overt attempt to influence any other voter (§ 24.2-604);
- The penalty for a person who votes knowing that he is not qualified to vote where or when the vote is being given, or who procures, assists or induces another to do so, is increased from a Class 1 misdemeanor to a Class 6 felony (§ 24.2-1004);
- The voter registration form must contain the statement that "whoever votes more than once in any election in the same or different jurisdictions shall be guilty of a Class 6 felony" (§ 24.2-418); and
- Law enforcement officers, persons granted protective orders, and other individuals who fear for their personal safety may continue to register using a post office box; however, the post office box must be maintained as current and cannot be allowed to expire (§ 24.2-418).

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**Analysis:**

According to calendar year (CY) 2006 and CY2007 Circuit Court Automated Information System (CAIS) data, two offenders were sentenced for a felony for voting more than once in the same election, in violation of § 24.2-1004. One offender (with 50 counts of the offense) received a sentence of 2 years and the other (with 2 counts) received a sentence of 2 months.

According to CY2006 and CY2007 General District CAIS data, there were no misdemeanor convictions for illegal voting in violation of § 24.2-1004.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal increases the penalty for a misdemeanor voting violation (voting where or when a person is not qualified, or having another do so) to a Class 6 felony. Data indicate that convictions under the existing statute have been rare, but recent news reports may indicate a rise in voter fraud allegations.<sup>1</sup> The number of additional felony convictions that may result from the proposal cannot be determined. Nonetheless, the impact on state-responsible (prison) bed space is expected to be small.

**Local adult correctional facilities.** The proposal may increase local-responsible (jail) bed space needs of the Commonwealth. While the magnitude of the impact cannot be quantified, it is expected to be small.

**Adult community corrections resources.** The proposal may increase the need for adult community corrections resources by a small but unquantifiable amount.

**Virginia's sentencing guidelines.** Conviction under § 24.2-1004 is not covered by the sentencing guidelines as the primary (or most serious) offense. A conviction under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile detention facility bed space needs.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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<sup>1</sup> For example: "More Voter Fraud in Wise County?" Richmond Times-Dispatch, May 2, 2008 [http://www.timesdispatch.com/rtd/news/local/article/-RTD\\_2008\\_05\\_02\\_0232/18658/](http://www.timesdispatch.com/rtd/news/local/article/-RTD_2008_05_02_0232/18658/); "Norfolk Voter-group Employee Indicted on Election Fraud," The Virginian-Pilot, October 16, 2008 <http://hamptonroads.com/2008/10/norfolk-votergroup-employee-indicted-election-fraud>