



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1812

(Patron – March)

LD#: 23101719

Date: 01/09/2023

Topic: Elections

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000*
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
Cannot be determined **
- **Juvenile Detention Facilities:**
Cannot be determined **

* Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends numerous sections of the *Code*, adds a section and repeals several others, related to elections in the Commonwealth. Under the proposal, the Attorney General is required to provide assessments and reports on foreign interference in elections held in the Commonwealth to the Governor and the General Assembly. Appropriate sanctions against any such foreign governments found to be interfering in elections in the Commonwealth are defined by the proposal.

The bill also repeals the provision that allows persons 16 years of age or older to preregister to vote, removes the ability to register to vote using the websites of the Department of Elections or the Department of Motor Vehicles, and moves the deadline for registering to vote from 21 days prior to an election to 30 days prior to an election. In addition, the bill directs the Department of Elections to conduct list maintenance activities during the 30 days prior to any election in which a candidate for federal office is not on the ballot, including the removal of duplicate registrations, requires voters to provide an excuse in order to vote absentee, removes the option to vote absentee in person, reinstates provisions requiring the presentation of a valid form of photo identification in order to vote, and directs general registrars to provide a paper copy of the pollbook at each polling place during all elections. Finally, the bill eliminates curbside voting and same-day voter registration, prohibits the use of any voting system that can be connected to the Internet and directs the State Board of Elections to decertify any such voting system.

The proposal increases the penalty for voter registration fraud, under § 24.2-1004, from a Class 6 felony to a Class 4 felony. Currently, § 24.2-1004 defines a Class 6 felony for 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.”

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2017 through FY2022, voter registration fraud (Class 6 felony) under § 24.2-1004 was the primary, or most serious, offense at sentencing for two offenders. There were other convictions for voting related felonies during this period. There were 13 offenders convicted of a Class 5 felony under § 24.2-1016, false statements, and one offender convicted of a Class 5 felony under § 24.2-1002.1, disclosure of social security number. In all the felony cases, no offender received an active term of incarceration to serve after sentencing. During this period, there also were no Class 4 felony convictions under § 24.2-1012, fraudulently sign the name of a qualified voter.

According to General District Court Case Management System (CMS), there were no convictions during the same period for the misdemeanor wrongfully voting offense under § 24.2-1004 (A).

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the penalty from a Class 6 felony to a Class 4 felony for one offense and potentially expands the applicability of several other felony offenses for which imprisonment is authorized, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. By increasing a penalty and expanding the applicability of existing felonies, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions and corresponding sentences resulting from the proposal cannot be determined, and the magnitude of the impact on jail bed space needs cannot be estimated.

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia’s Sentencing Guidelines. Violations of § 24.2-1004 and other voting offenses are not covered by the Sentencing Guidelines when the offense is the primary, or most serious, offense in a case. However, a conviction under this statute could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. No adjustment to the Guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal’s impact on the bed space needs of juvenile detention facilities cannot be determined.

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; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

election03_1719