



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1072

(Patron – Obenshain)

LD#: 13103420

Date: 01/07/2013

Topic: Election fraud

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000*
- **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:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends several sections of the *Code* relating to elections. All of the changes involve adding photographs and identifying information of registered voters to the electronic pollbook. In addition to requiring the Department of Motor Vehicles and the State Board of Elections to work together to include an image and identifying information in the pollbook, the proposal prohibits the unlawful disclosure of photographs and supplemental information contained in the pollbook. Since no punishment is provided for this prohibition, § 24.2-1017, which establishes a Class 1 misdemeanor, would likely apply to violations.

The proposal also allows officers of election to take photographs and collect identifying information from individuals whose photographs are not available in the pollbook. Under the proposed amendments to § 24.2-643, if no photograph is associated with a voter in the electronic pollbook and the voter asserts a religious objection to being photographed, he must sign a statement that he is the named registered voter and that he has a religious objection to being photographed. The voter would still be required to provide identifying information. Under § 24.2-1016, willfully making a false material statement in a form, statement, or report required by Title 24.2 is punishable as a Class 5 felony.

Analysis:

According to the Circuit Court Case Management System (CCMS)¹ for fiscal years 2011 and 2012, there were 18 convictions for felony violations of § 24.2-1016 related to election fraud. While the majority (88.9%) of the offenders did not receive an active term of incarceration to serve after sentencing, one offender received a local-responsible (jail) term of four months. The remaining offender received a state-responsible (prison) sentence of one year and one month.

¹ Formerly referred to as the Court Automated Information System (CAIS).

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the statements required under Title 24.2, the proposal increases the instances in which an individual may commit election fraud, as defined in § 24.2-1016. In this way, 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 that may result from enactment of the proposal. Although the magnitude of the impact on prison beds cannot be quantified, it is likely to be small.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined. The impact, if any, is likely to be small.

Adult community corrections programs. Because the proposal could result in additional felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified. However, any impact is likely to be small.

Virginia's sentencing guidelines. Convictions under § 24.2-1016 are not covered by the sentencing guidelines as the primary (most serious) offense. A conviction for such an offense, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. The legislative proposal may have an impact on juvenile correctional center bed space needs. However, the actual impact on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. While the legislative proposal may have an impact on juvenile detention bed space needs, the actual impact on 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 3 of the Acts of Assembly of 2012, 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.

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