



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 343 (Patron – Taylor)

LD#: 14102565

Date: 12/27/2013

Topic: Provisional ballots

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal adds § 24.2-653.2, relating to provisional ballots for hospitalized voters, to the *Code of Virginia*.

The proposal establishes procedures for use when voters are unable to vote using existing practices due to hospitalization. Under the proposal, the general registrar would be required to provide a paper ballot upon receipt of a statement, signed by the hospitalized voter and his designated representative, that the hospitalized voter is unable to vote in person or by absentee ballot due to hospitalization. Under § 24.2-1016, willfully making a false material statement in any 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 (CMS)¹ for fiscal year (FY) 2012 and FY2013, 17 offenders were convicted of a felony under § 24.2-1016 for election fraud. This was the primary, or most serious, offense in 15 of the cases. While the majority (86.7%) of these offenders did not receive an active term of incarceration to serve after sentencing, the remaining two offenders received local-responsible (jail) terms of two and four months, respectively. Although no offenders received a state-responsible (prison term) for a violation of § 24.2-1016 during FY2012 and FY2013, one offender was sentenced to a prison term of one year and one month for this offense in FY2011.

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

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the instances in which an individual may commit election fraud, as defined in § 24.2-1016, 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 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 in a case. 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. According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 806 of the 2013 Acts of Assembly 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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