



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 5120 Floor Amendment in the Nature of a Substitute (Patron Prior to Substitute – Howell)

LD#: 20201031

Date: 08/26/2020

Topic: Returning the absentee ballot of another

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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends Chapter 1289 of the Acts of Assembly 2020 (Budget Bill) to specify that, for the elections to be held on November 3, 2020, mailed absentee ballots must be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, (iii) to a drop-off location, or (iv) by commercial delivery service. Under the proposal, any person who returns an absentee ballot to a drop-off location on behalf of another would be guilty of a Class 6 felony.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2014 through FY2019, there were no convictions under the existing provisions of § 24.2-1012 for violations related to absentee voting.

Available data are insufficient to estimate the number of incidents in which an individual returns an absentee ballot for another person.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal creates a new Class 6 felony that would be applicable to the November 3, 2020, elections. By creating a new offense 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 determine the number of the cases that would be affected by the proposal. For this reason, the impact of the proposal on prison bed space needs cannot be estimated.

Local adult correctional facilities. The proposal may increase the local-responsible (jail) bed space needs; however, the magnitude of the impact on jail bed space needs cannot be estimated with existing data.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for additional 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 cannot be quantified.

Virginia's sentencing guidelines. Convictions for the proposed felony would not be covered by the sentencing guidelines as the primary (most serious) offense. However, such convictions 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 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 1289 of the Acts of Assembly of 2020 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.

election01_1031