# Fiscal Impact Statement for Proposed Legislation

*Virginia Criminal Sentencing Commission*

## Senate Bill No. 1395

***(Patrons – McClellan; Delegates: Price and Rasoul)***

**LD#:** 21102738 **Date:** 1/19/2021

**Topic:** Interference with 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 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, 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 within § 24.2 of the *Code* and repeals § 24.2-124 in relation to interference and intimidation in election proceedings.

Currently, § 24.2-1000 defines a Class 5 felony for "Any person who, by bribery, intimidation, or other means in violation of the election laws, willfully hinders or prevents, or attempts to hinder or prevent, the officers of election at any precinct from holding an election." The proposal specifies threats or coercion against election officers as additional prohibited behaviors, and substitutes "any polling place, voter satellite office, or other location being used by a locality for voting purposes" in place of precincts for applicable locations of this offense.

The proposed § 24.2-1005.2 introduces two new Class 1 misdemeanors for a) failure to count, tabulate, report, or allow a valid voter to submit a vote and b) intentionally providing a voter with a ballot in a language they do not understand (repurposed from another *Code* section), or attempting to alter a ballot to invalidate a vote. The proposal also amends a Class 1 misdemeanor under § 24.2-1005 to list new prohibited behaviors against voters. This section substitutes the current "threats, bribery, or other means" against a voter with "any person who intimidates, threatens, or coerces" as prohibited forms of voter interference.

**Analysis:**

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2015 through FY2020, zero offenders were convicted of a Class 5 felony under § 24.2-1000. According to General District Court CMS data for the same time period, there were zero convictions for a Class 1 Misdemeanor under § 24.2-1000.

**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal expands the applicability of § 24.2-1000 to include threats and coercion as prohibited acts against election officials, and to include new types of voting locations as areas where the offense applies. Thus, the proposal may increase the number of offenders convicted of a Class 5 felony under § 24.2-1000 in the future. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.[1]

**Local adult correctional facilities.** By expanding the applicability of an existing felony, expanding a misdemeanor, and creating two new misdemeanors, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions and corresponding sentencing trends 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 § 24.2-1000 are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. However, convictions under this statute could augment the guidelines recommendation 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 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.**

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[1] 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.