



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 2057 (Patron - Green)

LD #: 25101529

Date: 01/08/2024

Topic: Voter registration

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: None (\$0)* • Local Adult Correctional Facilities: Cannot be determined; likely to be small • Adult Community Corrections Programs: Cannot be determined; likely to be small 	<ul style="list-style-type: none"> • Juvenile Correctional Centers: Cannot be determined ** • Juvenile Detention Facilities: Cannot be determined ** <p>** Provided by the Department of Juvenile Justice</p>
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* 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 and reenacts §§ 24.2-404, 24.2-410.1, 24.2-1 411.2, 24.2-427, and 24.2-653.01 of the *Code of Virginia* and amends the *Code* by adding sections numbered 24.2-411.4, 24.2-3 411.5 and 24.2-411.6, relating to voter registration. The proposal would allow automatic voter registration of applicants for hunting and fishing licenses, milk distributor licenses, and concealed handgun permits. Making a false statement on the form for one of these licenses or permits would be considered election fraud, a Class 5 felony under § 24.2-1016.¹ The proposal establishes procedures for the clerk of any circuit court, staff of the Department of Wildlife Resources, and the Milk Commission to transfer voter registration information to the Department of Elections.

Analysis:

Existing data sources do not contain sufficient information to estimate the number of additional felony convictions that may result if the proposal is enacted. Individuals convicted of making a false statement on a form used by the Department of Wildlife Resources, the Milk Commission, or Circuit Court Clerk may be sentenced similarly to those currently convicted of a Class 5 felony under § 24.2-1016.

According to Circuit Court Case Management System (CMS) data for FY2019 through FY2024, there were eight convictions for election fraud under § 24.2-1016 as the primary, or most serious, offense at sentencing. All of the defendants received probation without an active term of incarceration to serve.

¹ Under current law, the felony offense related to election fraud defined in § 24.2-1016 is eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby individuals will serve a minimum of 67% of the sentence ordered by the court.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the process to automatically register voters and potentially increasing the number of Class 5 felony convictions for election fraud, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. In past six fiscal years, however, no offender convicted of a Class 5 felony under § 24.2-1016 has received an active state-responsible (prison) term. Therefore, the proposal is not expected to impact prison bed space needs during the six-year window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. The proposal may increase 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 with supervision requirements for the offenders, the proposal may affect adult community corrections resources. While the potential impact on community corrections resources cannot be quantified, any impact is likely to be small.

Virginia’s Sentencing Guidelines. A conviction under § 24.2-1016 is not covered by the Sentencing Guidelines when it is the primary, or most serious, offense in a case. Such a conviction could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. Voter fraud under the existing statute is not defined as violent under § 17.1-805(C) for Guidelines purposes. No adjustment to the Guidelines would be necessary under the proposal.

Juvenile correctional centers. 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 is \$0 for periods of imprisonment in state adult correctional facilities.

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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