

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 324
Ways and Means

(Delegate Afzali, *et al.*)

Elections - Offenses Relating to Voting - Penalties

This bill makes a violation of specified prohibitions relating to voting a felony instead of a misdemeanor and changes the applicable penalties to a fine of up to \$100,000 *and* imprisonment for up to five years instead of a fine of up to \$2,500 and/or imprisonment for up to five years.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's increased penalty provision.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's increased penalty provision.

Small Business Effect: None.

Analysis

Current Law: A person may not willfully and knowingly:

- (1) impersonate another person in order to vote or attempt to vote, or vote or attempt to vote under a false name;
- (2) vote more than once for a candidate for the same office or for the same ballot question;

- (3) vote or attempt to vote more than once in the same election, or vote in more than one election district or precinct;
- (4) vote in an election district or precinct without the legal authority to vote in that election district or precinct;
- (5) influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward;
- (6) influence or attempt to influence a voter's decision whether to go to the polls to cast a vote through the use of force, fraud, threat, menace, intimidation, bribery, reward, or offer of reward; or
- (7) engage in conduct that results or has the intent to result in the denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or disability.

A person that violates these provisions is guilty of a misdemeanor and on conviction is subject to a fine of up to \$2,500 and/or imprisonment for up to five years. A person who violates (6) and (7) above without knowing that the act is illegal is subject to a civil penalty of up to \$5,000.

Background: Changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses for prior felony convictions. Accordingly, it is assumed that this bill shifts an unknown number of cases from the District Court to the circuit courts. It is not known whether such a prospective shift may spur more plea bargains and affect actual sentencing practices for the offenses.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these crimes is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable medical care and variable operating costs) is about \$370 per month. Excluding all medical care, the average variable costs total \$180 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's increased monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the State Prosecutor, Office of the Public Defender, Department of Public Safety and Correctional Services, Maryland State Commission on Criminal Sentencing Policy, State's Attorneys' Association, Montgomery and Wicomico counties, Baltimore City, Department of Legislative Services

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Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510