

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 222 (Delegate Wilkins)
 Ways and Means and Judiciary Education, Health, and Environmental Affairs
 and Judicial Proceedings

Election Law - Correctional Facilities - Voter Registration and Voting

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to take specified actions to provide individuals released from a correctional facility with a voter registration application and to inform individuals who are no longer incarcerated that they have the right to vote. The bill also requires the State Board of Elections (SBE) to (1) adopt regulations establishing a program to facilitate voter registration and voting by individuals incarcerated in a correctional facility who have the right to vote and (2) report annually on the program and the implementation of the bill as a whole. **The bill takes effect June 1, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$179,400 in FY 2022; future years reflect annualization and ongoing costs. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	179,400	160,500	164,600	169,800	175,100
Net Effect	(\$179,400)	(\$160,500)	(\$164,600)	(\$169,800)	(\$175,100)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government expenditures increase, collectively, by at least \$179,400 in FY 2022, with ongoing costs in future years. Certain jurisdictions may also incur additional costs, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Voter Registration Materials and Voting Rights Information

The bill requires DPSCS to:

- provide each individual who is released from a State or local correctional facility with a voter registration application and documentation with the individual's discharge papers that informs the individual that their voting rights have been restored;
- display a sign in each parole and probation office, in a conspicuous location where notices to the public are customarily posted, indicating that any individual who is no longer incarcerated has the right to vote; and
- post a notice, in a conspicuous location on the department's website, indicating that any individual who is no longer incarcerated has the right to vote.

Eligible Voter Program

The bill requires SBE to adopt regulations establishing a program to inform individuals incarcerated in a correctional facility who have the right to vote (referred to as "eligible voters" under the bill) of upcoming elections and how they may exercise the right to vote. Under this section of the bill, "correctional facility" is defined as a facility for detaining or confining individuals that is operated by a correctional unit. "Correctional unit" is defined as a unit of Maryland State or local government that is directly responsible for the care, custody, and control of individuals committed to the custody of the unit for the commission or alleged commission of a crime or an act that would be a crime if committed by an adult. Correctional unit includes DPSCS, the Department of Juvenile Services (DJS), and the office of the sheriff of a county or other unit of government with responsibility for operating a local correctional facility or county detention center.

Each correctional facility must cooperate fully with SBE and the local boards of elections in implementing the program. The regulations adopted by SBE must require SBE or the local boards of elections to:

- disseminate information on eligibility requirements to register to vote and voter registration applications to eligible voters at least 30 days before the deadline to register to vote before each election;
- disseminate instructions on absentee voting, absentee ballot applications, and absentee ballots before each election in a timely manner;

- provide frequent opportunities for eligible voters to register to vote and to vote; and
- provide for the timely return of voter registration applications, absentee ballot applications, and absentee ballots completed by eligible voters.

Reporting

By January 15 each year, SBE must submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee that includes the following information, disaggregated by correctional facility:

- the number of eligible voters who registered to vote, attempted to vote, and voted successfully by absentee ballot during the immediately preceding calendar year;
- the number of times SBE or a local board of elections visited each correctional facility during the immediately preceding calendar year, the duration of each visit, and a description of the work done at each correctional facility;
- a description of any obstacles to implementing the provisions of the bill; and
- any recommendations for improving the implementation of the bill.

Current Law:

Voter Registration

Under State law, with certain exceptions, an individual may register to vote if the individual is a citizen of the United States, is at least age 16, and is a resident of the State as of the day the individual seeks to register. A person who has been convicted of a felony and is currently serving a court-ordered sentence of imprisonment for the conviction is not qualified to be a registered voter.

An individual may apply to become a registered voter through a number of means including (1) visiting an election board office; (2) by mail; (3) when applying for services at a voter registration agency (specified public and nongovernmental agencies designated by SBE, including agencies providing public assistance and services for individuals with disabilities, public higher education institutions, military recruiting offices, and one-stop career centers in the Maryland Department of Labor); (4) during an applicable transaction at automatic voter registration agencies, which are the Motor Vehicle Administration, the Maryland Health Benefit Exchange, local departments of social services, and the Mobility Certification Office in the Maryland Transit Administration; (5) through SBE's online voter registration system; or (6) at an early voting center or an election day polling place in their county of residence.

Absentee (Mail-in) Voting

An individual may vote by absentee (mail-in) ballot except to the extent preempted by federal law. An absentee ballot may be requested in writing (there are State and federal forms that can be used) or online through the SBE website. The voter may choose to receive the ballot by mail, by fax, through the Internet, or by hand at a local board of elections office. The voter may return the ballot by (1) mailing it, postmarked on or before election day or (2) delivering it in person to an early voting center or to the local board of elections or an election day polling place by the close of polls on election day.

State and Local Fiscal Effect:

Dedicated Outreach Personnel

State general fund and local government expenditures increase, collectively, by at least \$358,833 (split 50/50 between the State and local governments, \$179,417 each) in fiscal 2022, which accounts for the bill's June 1, 2021 effective date and assumes a four-month start-up delay. This estimate reflects the cost of hiring at least four correctional officers to be dedicated, roving voter registration and voting outreach personnel for correctional facilities (as defined with respect to the eligible voter program under the bill, including DPSCS, DJS, and local facilities) across the State. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- Hiring a small number of dedicated personnel, that have training and experience as correctional officers, who will work closely with the State and local boards of elections (potentially based in elections offices through an interagency agreement or agreements) and travel to the various correctional facilities across the State, operating an ongoing, year-round program, appears to be an efficient and effective method of implementing the eligible voter program contemplated by the bill, in comparison to individual elections offices and correctional facilities managing the need for additional resources that the bill may create and potentially collectively spending a greater amount on additional resources than is needed for a small number of dedicated, roving personnel.
- The dedicated outreach personnel will travel to approximately 60 DPSCS, DJS, and local facilities on an ongoing, year-round basis, providing outreach in the correctional facilities regarding voter registration, voting rights, and absentee voting, and recording the names of, and any other necessary information on, the individuals they interact with to provide to SBE to use in combination with their voter records to report on the effectiveness of the program as required under the bill.

- For the purposes of this estimate, it is assumed the cost of the dedicated outreach personnel is split 50/50 between the State and local governments, since the officers would be serving both State and local facilities, but presumably the cost could also be borne solely by the State or shared between the State and the local governments in proportions other than a 50/50 split.
- Depending on the amount of time that must be spent on the program’s efforts at each facility, more than four dedicated outreach personnel may be needed.

Position(s)	4
Salaries and Fringe Benefits	\$215,808
Vehicles	80,000
Other Operating Expenses	63,025
Total FY 2022 State/Local Expenditures	\$358,833

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Additional Local Costs

To the extent the bill requires correctional facilities to determine which individuals within the facility are eligible voters, at least with respect to whether or not they are disqualified because they are incarcerated for a felony, local correctional facilities may incur additional costs to do so. The Montgomery County Department of Correction and Rehabilitation, for example, indicates it would incur a cost of \$155,000 in fiscal 2022 and \$9,600 annually thereafter for the development and maintenance of a computer system to track and report that information.

At the State level, DPSCS indicates that it has a current policy to identify inmates/detainees who are Maryland residents and are in pretrial status or serving a sentence only for a misdemeanor offense or offenses. Under the policy, that list of individuals is provided to managing officials of State correctional facilities in order to make voter registration applications and absentee ballot applications available to those individuals upon request.

Additional Information

Prior Introductions: HB 568 of 2020 passed the House with amendments and was referred to the Senate Education, Health, and Environmental Affairs Committee and the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, SB 372, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Designated Cross File: SB 224 (Senator West) - Education, Health, and Environmental Affairs and Judicial Proceedings.

Information Source(s): State Board of Elections; Department of Public Safety and Correctional Services; Department of Juvenile Services; Harford, Montgomery, and Wicomico counties; Department of Legislative Services

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Analysis by: Scott D. Kennedy

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