

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 385  
Ways and Means

(Delegate Impallaria, *et al.*)

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Election Law - Voting by Felons at Polling Places - Prohibition

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This bill specifies that an individual who is a felon may vote only by absentee ballot and may not vote at a polling place. A felon who votes at a polling place is subject to existing monetary and incarceration penalties. The statewide voter registration application must require the applicant to indicate whether the applicant is a felon. Notification that an applicant who is a felon may vote only by absentee ballot and not at a polling place must be made available to the applicant. The bill also amends a voting-related exception to a prohibition against registered sex offenders knowingly entering on school or child/day care property; the bill specifies that the prohibition does not apply where entry on the property is for the purpose of voting at a school on an election day *provided* the registrant is not a felon.

The bill takes effect July 1, 2011.

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Fiscal Summary

**State Effect:** Transportation Trust Fund expenditures may increase by less than \$7,500 in FY 2012 for the Motor Vehicle Administration (MVA) to make revised voter registration-related forms available after the effective date of the bill. Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provision.

**Local Effect:** Local government expenditures increase in FY 2012 and possibly in FY 2013 by a significant amount due to software development costs and may also increase due to personnel and mailing costs. Potential minimal increase in revenues and expenditures due to the bill's penalty provision. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Potential minimal.

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## Analysis

**Current Law:** A person convicted of a felony is not qualified to be a registered voter while actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction. Registered voters, however, generally have the choice of voting in person or by absentee ballot.

A person who is convicted of a violation of a provision of Title 9, Subtitle 3 (“Absentee Voting”) of the Election Law Article (within which the bill’s prohibition against a felon voting at a polling place is established) is subject to a fine of up to \$1,000 and/or imprisonment for up to two years.

Under the Criminal Procedure Article, registered sex offenders may not knowingly enter onto real property that is used for public or nonpublic elementary or secondary education or where a State-registered/licensed family day care home, child care home, or child care institution is located. The prohibition, however, does not apply to a registrant who enters real property for the purpose of voting at a school on an election day in the State if the registrant is properly registered to vote, and the registrant’s polling place is at the school.

### **State Fiscal Effect:**

#### *Motor Vehicle Administration*

Transportation Trust Fund expenditures may increase minimally in fiscal 2012 to reprint MVA forms to account for the bill’s changes. MVA indicates the cost associated with revising and printing a three-month inventory of necessary forms would be \$7,500. MVA, however, has a system in place to adjust the regular printing of forms to minimize costs and wasted forms associated with expected revisions, likely resulting in any increase in costs being less than \$7,500.

#### *Criminal Penalties*

General fund revenues may increase minimally as a result of the bill’s monetary penalty provision from cases heard in the District Court. General fund expenditures may also increase minimally as a result of the bill’s incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

**Local Fiscal Effect:** Local government expenditures increase in fiscal 2012 and possibly in fiscal 2013 by a significant amount due to costs of software development for the statewide voter registration database and potential personnel costs associated with manually accounting for the bill's changes until the software development can be completed.

The State Board of Elections (SBE) advises that various changes will need to be made to the statewide voter registration database, including providing for the ability to track registered voters who are felons in the database, generate notifications to the voters regarding the voters' ability to only vote absentee, and ensure that those voters' registration records are not included in the electronic pollbooks and precinct registers on election day. SBE estimates that such changes could result in increased development costs (billed to the local boards by SBE) of up to \$250,000.

*For illustrative purposes*, if \$250,000 in increased costs is allocated among the counties, Montgomery County (representative of a large county) expenditures, for example, would increase by approximately \$42,000, while Cecil County (representative of a smaller county) expenditures would increase by approximately \$4,400.

SBE also indicates that the software development may be delayed until after the 2012 presidential elections and an extensive manual business process to account for the bill's changes would need to be developed and implemented until that time. Local boards may have increased personnel costs as a result; however, the extent of any increase in costs is uncertain.

Mailing costs may be incurred by local boards of elections to notify affected voters and mail additional absentee ballots. SBE, however, at this time is unable to determine how many registered voters are affected.

### *Criminal Penalties*

Revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts. Expenditures may also 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 DOC but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from \$57 to \$157 per inmate in recent years.

## **Additional Information**

**Prior Introductions:** HB 656 of 2010 received a hearing in the House Ways and Means Committee but was subsequently withdrawn.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Maryland Department of Transportation (Motor Vehicle Administration); Office of the Public Defender; State Prosecutor's Office; State's Attorney's Association; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Howard, Montgomery, and Prince George's counties; Baltimore City; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2011  
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Analysis by: Scott D. Kennedy

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