

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 784  
Ways and Means

(Delegate Rosenberg)

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Election Law - False Statements - Correction and Prohibition

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This bill requires the Attorney General to communicate to the public corrected information about false statements made regarding the endorsement of political entities or false statements relating to voting requirements. The bill also sets criminal and civil penalties for violating specified provisions of the bill. **The bill takes effect July 1, 2019.**

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Fiscal Summary

**State Effect:** The bill's requirements can be handled with existing resources. The bill's penalty provisions are not expected to materially affect State operations or finances.

**Local Effect:** The bill's penalty provisions are not expected to materially affect local government operations or finances.

**Small Business Effect:** None.

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Analysis

**Bill Summary:**

*Definitions*

The bill defines "endorsement" as the public support of a specially named person, political party, or organization for the election of a specific candidate.

The bill defines "materially false statement" as a communicated statement (or a statement caused to be communicated) by any means within 60 days before an election if the person

making the statement (1) knows the statement to be false and (2) has the intent to impede or prevent another person from exercising the right to vote in an election.

The bill defines “voting requirements” as the time, place, or manner of holding an election or the qualifications for or restrictions on voter eligibility for an election, including (1) criminal penalties associated with voting in an election and (2) information regarding a voter’s registration status or eligibility to vote.

*Office of the Attorney General Notification, Correction of Materially False Statements, and Procedures*

The Attorney General must communicate to the public by any means accurate information designed to correct a materially false statement if the Attorney General (1) receives a credible report that a materially false statement about an endorsement or voting requirements has been or is being communicated and (2) determines that the State Board of Elections (SBE) and local boards of election have not taken adequate steps to promptly communicate accurate information to correct the materially false statements.

Information communicated by the Attorney General (1) must be accurate and objective; (2) must consist of only the information necessary to correct the materially false statement that has been or is being communicated; (3) must be communicated by a means that will reach the persons to whom the materially false statement has been or is being communicated; and (4) may not be designed to favor or disfavor any candidate, organization, or political party.

The Attorney General must publish on the agency’s website written procedures and standards for determining when and how corrective action will be taken. The procedures and standards must include appropriate deadlines, based in part on the number of days remaining before an election. In developing the procedures and standards, the Attorney General must consult with SBE and local boards of elections and other specified organizations.

*Penalties*

A person who makes a materially false statement about an endorsement is guilty of a misdemeanor and on conviction is subject to a fine not more than \$5,000 and/or imprisonment for not more than five years.

**Current Law:** Pursuant to Chapter 396 of 2015, the Attorney General may institute an action in circuit court for injunctive relief to prohibit a person from committing an imminent violation or continuing to commit a violation of specified provisions of the Election Law Article that prohibit certain voting-related offenses. However, the

State Prosecutor, not the Attorney General, is authorized to seek injunctive relief if the Attorney General is a candidate in a contest on the ballot in an election and a violation is committed by the Attorney General, a candidate opposing the Attorney General in a contest on the ballot, or a person acting on behalf of the Attorney General or an opposing candidate.

Injunctive relief may only be granted (1) to prevent a violation from affecting a pending election and (2) based on a showing by clear and convincing evidence that a violation is imminent or is being committed.

The voting-related offenses for which an action for injunctive relief may be instituted include influencing or attempting 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. A person who commits that offense willfully and knowingly is guilty of a misdemeanor and subject to a fine of up to \$5,000 and/or imprisonment for up to five years. A violation can instead be subject to civil penalties of up to \$5,000 if the violator did not know the act was illegal.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Commission on Civil Rights; Baltimore, Carroll, Harford, Montgomery, and Queen Anne's counties; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Federal Election Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2019  
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