

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1022 (Delegate Wilkins)
 Judiciary and Ways and Means

Election Law - Incarcerated Individuals - Voting Eligibility and Access (Voting Rights for All Act)

This bill repeals the State law provision that establishes that an individual is not qualified to be a registered voter if the individual has been convicted of a felony and is currently serving a court-ordered sentence of imprisonment for the conviction. The bill requires the State Board of Elections (SBE) to (1) facilitate voting by eligible voters by providing each correctional facility with a secure ballot drop box and (2) provide a toll-free voter hotline for incarcerated individuals. The bill also establishes a Voting Rights Ombudsman for Incarcerated Individuals to oversee implementation of the bill and specified existing law and make recommendations. **The bill takes effect January 1, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by \$87,000 in FY 2025, with ongoing costs in future years. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	87,000	98,000	102,300	106,800	111,500
Net Effect	(\$87,000)	(\$98,000)	(\$102,300)	(\$106,800)	(\$111,500)

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

Local Effect: The bill is not expected to materially affect local government finances, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary:

Voter Qualifications

This bill repeals (1) the State law provision that establishes that an individual is not qualified to be a registered voter if the individual has been convicted of a felony and is currently serving a court-ordered sentence of imprisonment for the conviction and (2) the corresponding prohibition against such a person voting or attempting to vote during the time that they are rendered ineligible.

The bill also repeals requirements (1) that the clerk of the circuit court for each county and the administrative clerk for each District Court report to the State Administrator of Elections the names and addresses of all individuals convicted, in the respective court, of a felony and (2) that the State Administrator make arrangements with the clerk of the U. S. District Court for the District of Maryland to receive reports of names and addresses, if available, of individuals convicted of a felony in that court.

Ballot Drop Box and Voting Program at Each Correctional Facility

State Board of Elections

The bill adds to an existing provision that 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 existing law and under the bill) of upcoming elections and how they may exercise the right to vote. The bill adds to the existing provision by requiring that the program also provide ballot drop boxes to correctional facilities. The bill correspondingly repeals provisions (described below, under Current Law) requiring a ballot drop box only at the Baltimore City centralized booking facility.

SBE must provide each correctional facility with:

- a secure, designated ballot drop box in time to allow eligible voters sufficient opportunity to submit election-related materials to SBE or a local board of elections before any election-related deadlines; and
- written notification materials for eligible voters about how to use the ballot drop box.

Under these provisions “correctional facility” means 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, HB 1022/ Page 2

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 the Department of Public Safety and Correctional Services (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.

The bill requires SBE to collaborate with DPSCS in adopting the regulations establishing the program to (1) inform eligible voters of upcoming elections and how eligible voters may exercise the right to vote and (2) provide ballot drop boxes to correctional facilities. The bill also modifies and adds to provisions establishing what the regulations must require SBE or the local boards of elections to do:

- The bill modifies an existing requirement that SBE or the local boards 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, so that the information and applications must instead be disseminated twice during the 60 days prior to the deadline to register to vote before each election.
- The bill adds requirements that SBE or the local boards (1) provide staff to collect the ballot drop boxes from each correctional facility after an election-related deadline; (2) collect on a regular basis election-related materials that have been placed in a ballot drop box provided to a correctional facility; and (3) distribute the election-related materials collected from the ballot drop boxes to SBE or a local board of elections, as appropriate and in a timely manner.

The bill establishes that, irrespective of the Public Information Act, SBE or a local board may not be required to disclose any identifying information concerning an incarcerated individual that SBE or a local board obtains from a correctional facility for the purpose of implementing the program.

Correctional Facilities

The bill requires each correctional facility to:

- display signs in accordance with the regulations adopted by SBE, in all areas where individuals are processed during intake or for release and in appropriate areas where there is high visibility;
- provide the ballot drop box provided by SBE to eligible voters to enable the submission of election-related materials to election officials;
- monitor and safeguard the ballot drop box;

- if the correctional facility receives a ballot addressed to an individual who has been released from incarceration, return the ballot to the local board; and
- designate an employee who will serve as the primary point of contact between SBE and the correctional facility.

Under these provisions, “correctional facility” means a facility that is operated for the purpose of detaining or confining adults who are charged with or found guilty of a crime.

SBE must provide each correctional facility advice and guidance in carrying out these requirements. Each correctional facility must cooperate fully with SBE and the local boards of elections in implementing the requirements.

Toll-free Voter Hotline for Incarcerated Individuals

SBE must provide a toll-free voter hotline for incarcerated individuals to receive information about voting, request election-related materials, and report voting rights violations. SBE must adopt regulations in collaboration with DPSCS and correctional facilities for the administration of the voter hotline.

Voting Rights Ombudsman for Incarcerated Individuals

The bill establishes a Voting Rights Ombudsman for Incarcerated Individuals. The State Administrator of Elections must appoint the ombudsman, and the ombudsman may be removed from office by the State Administrator after a finding of incompetency or other good cause.

The ombudsman must (1) oversee the implementation of the bill’s provisions and existing requirements facilitating voting by incarcerated and released individuals and (2) make recommendations to SBE, DPSCS, and correctional facilities on appropriate community organizations and partnerships to assist in facilitating voting by incarcerated individuals.

The ombudsman may conduct scheduled visits to correctional facilities to facilitate implementation of the bill’s provisions and existing requirements facilitating voting by incarcerated and released individuals; however, (1) DPSCS and correctional facilities may limit access to areas within correctional facilities when restrictions are required for the safety of the ombudsman or for the efficient functioning of the correctional facilities and (2) the ombudsman must obtain a security clearance if required and comply with all other security regulations before gaining access to a correctional facility.

By January 1 each year, the ombudsman must submit a written report to SBE on the implementation of the bill’s provisions and existing requirements facilitating voting by incarcerated and released individuals.

Expanded Reporting Requirements

The bill adds to an existing annual report that SBE must submit to specified legislative committees by requiring that SBE include, disaggregated by correctional facility:

- a description of specified violations reported by the ombudsman; and
- an analysis of the election-related materials submitted to the ballot drop box provided to each correctional facility, including (1) the number of absentee ballot applications received and accepted; (2) absentee ballots received and accepted; and (3) other election-related materials received.

The bill also modifies specified existing portions of the report so that recommendations and a description of obstacles are included with respect to new requirements of correctional facilities under the bill rather than the existing requirements of correctional facilities that they provide voter registration materials and voting rights information to released individuals.

Current Law:

Voter Qualifications

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.

A person who has been convicted of a felony and is currently serving a court-ordered sentence of imprisonment for the conviction, and has been rendered ineligible to vote pursuant to State voter registration qualification provisions, may not vote or attempt to vote during the time that the person is rendered ineligible to vote. A person who violates that prohibition is guilty of a felony and subject to imprisonment for at least one year and up to five years.

Ballot Drop Box Required in Baltimore City Centralized Booking Facility

The Baltimore City centralized booking facility must:

- provide a secure, designated ballot drop box from SBE to eligible voters so that they may easily submit absentee ballot applications, absentee ballots, and voter registration forms to SBE or a local board of elections;

- monitor the ballot drop box 24 hours a day and 7 days a week; and
- Disseminate written notifications directly to each eligible voter on how and when to use the ballot drop box.

“Eligible voter” means an individual who is incarcerated at the Baltimore City centralized booking facility and has the right to vote under State law.

SBE must provide the Baltimore City centralized booking facility with the ballot drop box and written notification materials to disseminate to eligible voters and advice and guidance in carrying out these requirements. The Baltimore City centralized booking facility must cooperate fully with SBE in implementing these requirements. SBE must pay for the ballot drop box.

SBE must adopt regulations in collaboration with DPSCS to provide the ballot drop box and written notifications. SBE must provide the ballot drop box to the Baltimore City centralized booking facility in time to allow eligible voters sufficient opportunity to submit election-related materials before any election-related deadlines.

The local board of elections for Baltimore City must provide staff to collect (1) election-related materials submitted to the ballot drop box on at least a weekly basis and (2) the ballot drop box after an election-related deadline. The local board must distribute the election-related materials collected from the ballot drop box to SBE or another local board, as appropriate and in a timely manner.

By January 1 each year, the local board of elections for Baltimore City must submit a report to specified legislative committees on the election-related materials submitted to the ballot drop box, specifically (1) the number of absentee ballot applications received and accepted; (2) absentee ballots received and accepted; and (3) other election-related materials received. The information must be disaggregated by each weekly collection from the ballot drop box and by SBE or the local board that is the intended recipient of the materials.

Voter Registration Materials and Voting Rights Information for Released Individuals

DPSCS must:

- 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.

Under these provisions, “correctional facility” means a facility that is operated for the purpose of detaining or confining adults who are charged with or found guilty of a crime.

Eligible Voter Program

SBE must adopt regulations establishing a program to inform individuals incarcerated in a correctional facility who have the right to vote (referred to as “eligible voters”) of upcoming elections and how they may exercise the right to vote.

“Correctional facility,” under these provisions, 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, 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 Requirements

By January 15 each year, SBE must submit a report to specified legislative committees 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 (1) the program informing eligible incarcerated individuals of upcoming elections and how to exercise their right to vote or (2) the provisions (discussed above) requiring DPSCS to provide voter registration material and voting rights information to released individuals; and
- any recommendations for improving the implementation of (1) the program informing eligible incarcerated individuals of upcoming elections and how to exercise their right to vote or (2) the provisions requiring DPSCS to provide voter registration material and voting rights information to released individuals.

State Fiscal Effect: General fund expenditures increase by \$86,982 in fiscal 2025, which accounts for the bill’s January 1, 2025, effective date. This estimate reflects the costs for SBE to (1) hire the Voting Rights Ombudsman for Incarcerated Individuals and (2) purchase secure, designated ballot drop boxes for local correctional facilities and DJS detention facilities. This estimate assumes:

- ballot drop boxes are only provided by SBE to 25 local correctional facilities and five DJS detention facilities since ballot drop boxes have already been implemented in DPSCS facilities;
- the average cost for ballot drop boxes is \$1,000, for either a single, larger drop box at each facility, or a small number of smaller drop boxes, if multiple drop boxes are needed to make a drop box accessible to all eligible voters in a facility; and
- the bill’s requirements that a toll-free voter hotline be provided can be implemented with existing resources.

The estimate includes a salary, fringe benefits, one-time start-up costs (including ballot drop boxes), and ongoing operating expenses.

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Salary and Fringe Benefits	\$49,996
Secure Ballot Drop Boxes	30,000
Other Operating Expenses	<u>6,986</u>
Total FY 2025 State Expenditures	\$86,982

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

DPSCS indicates that it can implement the bill with existing resources and it is assumed DJS can do so as well.

Local Fiscal Effect: Because of the existing requirements in the law for voting outreach efforts (described under Current Law) in correctional facilities, and implementation of those requirements to date (as described in SBE's most recent [report](#) on the implementation), this analysis assumes the bill's changes can be implemented by local correctional facilities and local boards of elections with existing resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Garrett, Prince George's, and Worcester counties; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Maryland State Board of Elections; Department of Legislative Services

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