

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 462 (Senator Exum, *et al.*)
Education, Health, and Environmental Affairs

Elections - Voter Registration Eligibility Requirements - Convicted Criminals

This bill prohibits an individual from registering to vote if the individual has been convicted of a crime and is awaiting or actually serving a court-ordered sentence of imprisonment imposed for the conviction.

The bill repeals provisions that require an individual convicted of theft or other infamous crime to complete the court-ordered sentence in the case of a first conviction, or in the case of a subsequent conviction, complete the court-ordered sentence and allow three years to elapse. The bill allows a felon convicted of any crime, regardless of the number of convictions, to register to vote subsequent to being released from the custody of the Division of Correction (DOC) or local correctional facility.

Fiscal Summary

State Effect: Any costs incurred by the State Board of Elections (SBE) to update and restock voter publications could be handled with existing budgeted resources. Potential minimal increase in computer reprogramming costs for the Motor Vehicle Administration (MVA) in FY 2006 only.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An individual is not qualified to be a registered voter if the individual has been convicted of theft or other infamous crime unless the individual: (1) has been

pardoned; (2) has completed the court-ordered sentence imposed in connection with a first conviction; or (3) has completed the court-ordered sentence for a subsequent conviction, and at least three years have elapsed since that completion.

In addition, individuals who are under guardianship for mental disability, have been convicted of buying or selling votes, or have been convicted of a second or subsequent crime of violence, are not eligible.

An infamous crime is defined in the Election Article as any felony, treason, perjury, or any crime involving an element of deceit, fraud, or corruption.

An individual convicted of a second or subsequent crime of violence is not qualified to be a registered voter.

Background: Prior to 1974, individuals who had been convicted of an infamous crime were prohibited from registering to vote. In 1974, an individual convicted of one infamous crime was allowed to vote provided the individual completed the sentence imposed, including any period of probation. The prohibition on voting remained for an individual convicted of a subsequent infamous crime.

Chapter 481 of 2001 established a Task Force to Study Repealing the Disenfranchisement of Convicted Felons in Maryland. The task force report, issued in January 2002, did not contain any specific recommendations. However, its major findings revealed Maryland was one of two states that prohibited felons who have completely served their sentences after a subsequent conviction from registering to vote. Eight other states prescribed more stringent law, disenfranchising felons after one conviction.

Chapter 304 of 2002 enfranchised an individual convicted of a subsequent conviction provided that the court-ordered sentence is completed and at least three years have elapsed since that completion.

SBE has no process in place for determining whether an individual with a felony conviction for an infamous crime is disqualified from voting since the information received from court clerks do not specify whether a conviction is a first or subsequent conviction. In addition, local boards of election are prohibited by law to request this information from registrants.

Local election boards implement current law by requiring a registrant to sign an oath under penalty of perjury that the registrant meets the registration qualifications according to the law. According to SBE, there is no way for a local board to know or check if a new registration is from a previously convicted felon.

State Fiscal Effect: SBE periodically modifies, redesigns, reprints, and restocks the statewide voter registration application and informational brochures to reflect statutory, regulatory, or other policy changes. Thus, the bill's requirements could be handled with SBE's existing resources.

The Department of Legislative Services advises that any computer reprogramming costs the MVA might incur to modify its electronic voter registration application form would be minimal, especially if other legislation is passed requiring computer reprogramming changes, allowing economies of scale to be realized. This would reduce the costs associated with this bill and other legislation affecting the MVA.

Additional Comments: DOC reported that approximately 15,000 individuals were released from its facilities in calendar 2000.

Additional Information

Prior Introductions: A nearly identical bill, SB 105 of 2004 received a hearing by the Education, Health, and Environmental Affairs Committee.

Cross File: HB 12 (Delegate Marriott, *et al.*) – Ways and Means.

Information Source(s): Baltimore City, Montgomery County, Prince George's County, Maryland State Board of Elections, Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2005
ncs/jr

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