

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 565
Ways and Means

(Delegates Rosenberg and Cardin)

Elections - Voting Interference - Misuse of Telephone Facilities and Electronic Mail

This bill prohibits a person from willfully and knowingly using specified electronic mail or telephone facilities or equipment with the intent to prevent, obstruct, or delay • a person with a lawful right to register to vote from registering; • any other telecommunications device from being used to engage in communications containing specified election-related information; or • the broadcast or exchange of voter registration or election-related information. Violations are subject to existing criminal penalties.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Minimal increase in local government revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Current Law: Various voter registration and voting-related offenses are specified in State law, including • specified means of willfully and knowingly preventing, hindering, or delaying a person having a lawful right to register from registering; • specified means

of willfully and knowingly influencing or attempting to influence a voter's voting decision or decision whether to go to the polls to vote; and • engaging in conduct that denies or abridges, or has the intent to deny or abridge, a person's right to vote on account of race, color, or disability. Voter registration-related offenses are misdemeanors subject to a fine of up to \$1,000 and/or imprisonment for up to five years. Voting-related offenses are misdemeanors subject to a fine of up to \$2,500 and/or imprisonment for up to five years. Specified voting-related offenses that are engaged in without knowledge that an act is illegal are subject to civil penalties.

Background: The U.S. Court of Appeals for the First Circuit, in *United States v. Tobin*, 480 F.3d 53 (1st Cir. 2007), reversed the conviction of a political party member that had been found guilty under federal law of conspiring to use, and aiding and abetting the use of, automated calling machines to make harassing interstate phone calls. The court remanded the case to the District Court for further proceedings. The party member had participated in the hiring of a telemarketer to jam phone lines of the opposing party with hang-up calls to disrupt get-out-the-vote operations. Resolution of the case is still pending.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these proposed crimes is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are

generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could 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 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Board of Elections, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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mll/ljm

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