

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1044 (Delegate Smith, *et al.*)
 Ways and Means

Maryland Voting Rights Act of 2025 - Preclearance and Voter Intimidation and Obstruction

This bill prohibits voter intimidation, deception, or obstruction and requires local governments that meet certain criteria to receive preclearance from the Attorney General or the Circuit Court for Anne Arundel County before enacting or implementing policies affecting voting rights. **The bill takes effect January 1, 2026.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$359,700 in FY 2026, and by ongoing minimum amounts in future years. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	359,700	295,300	308,300	322,000	335,800
Net Effect	(\$359,700)	(\$295,300)	(\$308,300)	(\$322,000)	(\$335,800)

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

Local Effect: Local government expenditures may increase beginning in FY 2026, as discussed below. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Prohibition Against Voter Intimidation, Deception, or Obstruction

The bill prohibits a person, whether acting under color of law or otherwise, from engaging in acts of intimidation, deception, or obstruction that interfere with an individual's right to vote.

Actions that constitute violations include:

- the use of force or threats to use force, or the use of any other conduct to practice intimidation that causes or will reasonably have the effect of causing interference with an individual's right to vote;
- the knowing use of a deceptive or fraudulent device, contrivance, or communication that causes or will reasonably have the effect of causing interference with any individual's right to vote; or
- the obstruction of, impediment to, or other interference with access to a polling place, a ballot drop box, or an office or a place of business of an election official or a voter in a manner that causes or will reasonably have the effect of causing interference with any individual's right to vote or any delay in voting or the voting process.

The following persons may file an action in the Circuit Court for Anne Arundel County alleging a violation of the prohibition: (1) an aggrieved person; (2) an organization whose membership includes or is likely to include aggrieved persons; (3) an organization whose mission would be frustrated by a violation of the prohibition; (4) an organization that would expend resources in order to fulfill its mission as a result of a violation of the prohibition; or (5) the Attorney General.

Notwithstanding any other law, if the Circuit Court for Anne Arundel County finds a violation, the court must order appropriate remedies that are tailored to address the violation. The remedies ordered may include providing for additional time to vote during an election. A person who violates the prohibition or who aids in the violation of the prohibition is liable for any damages awarded by the court, including nominal damages for any violation and compensatory or punitive damages for any willful violation.

Preclearance

Requirement

The bill requires a covered jurisdiction to receive preclearance from the Attorney General or the Circuit Court for Anne Arundel County prior to the enactment or implementation of a covered policy. A local government that is not a covered jurisdiction may submit a proposed policy for preclearance to the Attorney General. The bill establishes procedures and standards for (1) the Attorney General's review of a covered policy and determination to deny or grant preclearance and (2) the alternative for a covered jurisdiction to submit a covered policy to the Circuit Court for Anne Arundel County for preclearance instead of the Attorney General.

The Attorney General, or the Circuit Court for Anne Arundel County, may deny preclearance only if it is determined that the covered policy is more likely than not to (1) diminish the opportunity or ability of protected class members who are the basis for the local government's preclearance coverage status to participate in the political process or nominate or elect candidates of their choice or (2) violate the bill's provisions.

The bill requires the Attorney General to adopt regulations to carry out the preclearance provisions, including (1) the content of and procedure for preclearance submissions and (2) procedures for public comment and transparency for preclearance determinations and expedited or emergency preclearance determinations.

Determination and List of Covered Jurisdictions

By January 1, 2026, and at least annually thereafter, the Attorney General must determine which local governments are covered jurisdictions. A State agency or other appropriate entity must transmit to the Attorney General any data or information in a usable format that the Attorney General considers necessary to make the determination.

The Attorney General must (1) as soon as practicable, publish and maintain a list of local governments that are covered jurisdictions on the website of the Attorney General and (2) provide notice to each local government that is a covered jurisdiction.

“Covered Jurisdiction” and “Covered Policy”

“Covered jurisdiction” means a local government:

- that, within the immediately preceding 25 years, has become subject to a court order or government enforcement action based on a finding of a violation of the bill, the federal Voting Rights Act, the Fifteenth Amendment to the U.S. Constitution, or a

voting related violation of the Fourteenth Amendment to the U.S. Constitution for discrimination against members of a protected class;

- that, within the immediately preceding 25 years, has become subject to a court order or government enforcement action based on a finding of a violation of a federal or State civil rights law or the Fourteenth Amendment to the U.S. Constitution concerning a pattern, practice, or policy that resulted in discrimination against members of a protected class;
- that, within the immediately preceding 25 years, was found to have enacted or implemented a covered policy without obtaining preclearance for the covered policy; or
- that contains at least 6,000 citizens of any protected class of voting age, or whose members constitute at least 15% of the citizen voting-age population of the local government, and within the immediately preceding 10 years (1) the percentage of the citizen voting-age population of the protect class that is registered to vote is at least 10 percentage points lower than the percentage of all citizens of voting age that are registered to vote in the local government; (2) the percentage of the citizen voting-age population of a protected class that participated in any general election for local office, including executive, legislative, judicial, and other local offices, is at least 10 percentage points lower than the percentage of all citizens of voting age that participated in the general election; or (3) has had a traffic stop rate or the combined misdemeanor and felony arrest rate of members of any protected class that is more than double the rate of the whole population of the jurisdiction.

“Covered policy” means a new or modified standard, practice, procedure, law, ordinance, regulation, or policy that a covered jurisdiction is required to submit for preclearance. It includes:

- if the covered jurisdiction is a municipality (1) the method of election for the governing body; (2) districting or redistricting; (3) the number of seats on the governing body; (4) annexation, incorporation, dissolution, consolidation, or division of a municipality; (5) the timing of municipal elections; (6) voter registration lists, including the removal of individuals from a voter registration list and cancellation or denial of voter registration; (7) voter challengers, watchers, or observers; (8) the hours, locations, or number of polling places, early voting centers, or drop box locations; (9) the reorganization of precincts; (10) the distribution of voting equipment and staff, including election judges, to polling places and early voting centers; and (11) any additional subject matter that may be identified by the Attorney General by regulation;
- if the covered jurisdiction is a county or board of education (1) the method of election for the governing body of the covered jurisdiction; (2) districting or redistricting; (3) the number of seats on the governing body of the covered

jurisdiction; and (4) any additional subject matter that may be identified by the Attorney General by regulation; and

- a method of election or a districting plan if a covered jurisdiction maintains the method of election or makes no revisions to the districting plan after a decennial census.

“Government enforcement action” means a denial of administrative or judicial preclearance by the federal or State government, pending litigation filed by a federal or State entity, a final judgment or adjudication, a consent decree, or similar formal action.

“Local government” means a municipality or county, or a county board of education.

Authorizations to Bring an Action

The bill establishes that specified persons (similar to those authorized to file an action for a violation of the bill’s prohibition against voter intimidation, deception, or obstruction) may bring an action in the Circuit Court for Anne Arundel County:

- to enjoin the enactment or implementation of a covered policy and seek sanctions if a covered jurisdiction enacts or implements a covered policy without first obtaining preclearance; or
- for injunctive or other adequate relief, evaluated on a *de novo* basis, if (1) the Attorney General or the court has approved preclearance for a covered policy in violation of the bill’s preclearance provisions; (2) the Attorney General has identified a list of covered jurisdictions that is inconsistent with the bill’s preclearance provisions; or (3) the Attorney General has failed to properly implement the bill’s preclearance provisions.

Current Law:

Denial or Abridgement of the Right to Vote – Federal Voting Rights Act

Under [Section 2](#) of the federal Voting Rights Act of 1965, no voting qualification or prerequisite to voting or standard, practice, or procedure may be imposed or applied by any State or political subdivision in a manner that results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or status as a member of a language minority group. A violation of that prohibition is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by the prohibition in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

Prohibitions Against Voter Intimidation, Deception, or Obstruction

Federal law prohibits a person, whether acting under color of law or otherwise, from intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce a person for the purpose of interfering with the right of the person to vote, or to vote as they choose, or causing the person to vote for, or not to vote for, any candidate, in a federal election. If any person has engaged in, or there are reasonable grounds to believe any person is about to engage in such conduct, the U.S. Attorney General may institute a civil action or other proper proceeding for preventive relief.

State law prohibits a person from willfully and knowingly:

- (1) influencing or attempting to influence a voters' voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward;
- (2) influencing or attempting to influence a voter's decision whether to go to the polls to cast a vote, or vote by other lawful means, through the use of force, fraud, threat, menace, intimidation, bribery, reward, or offer of reward; or
- (3) engaging in conduct that results or has the intent to result in the denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or disability.

A person who violates these State law prohibitions is guilty of a misdemeanor and subject to a fine of up to \$5,000 and/or imprisonment for up to five years. A person who violates the prohibitions under (2) and (3) without knowing that the act is illegal is subject to a civil penalty of up to \$5,000.

Chapter 396 of 2015 (Voter's Rights Protection Act of 2015) authorizes the Maryland Attorney General (and, under certain circumstances, the State Prosecutor) to 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 those State law prohibitions.

Attorney General

Under the Maryland Constitution, the Attorney General's responsibilities include:

- investigating, commencing, and prosecuting or defending any civil or criminal suit or action or category of such suits or actions in any of the federal courts or in any court of the State, or before administrative agencies and quasi legislative bodies, on the part of the State or in which the State may be interested, which the General Assembly (by law or resolution) or the Governor directs to be investigated, commenced, and prosecuted or defended; and

- giving the Attorney General’s opinion in writing whenever required by the General Assembly or either branch thereof, the Governor, the Comptroller, the Treasurer, or any State’s Attorney, on any legal matter or subject.

State Fiscal Effect: General fund expenditures increase by at least \$359,658 in fiscal 2026, which accounts for early implementation of the bill, beginning July 1, 2025, despite the bill’s January 1, 2026 effective date, since the Attorney General is required to determine the local governments that are covered jurisdictions by January 1, 2026.

This estimate reflects costs for the Office of the Attorney General (OAG) to (1) hire at least one assistant Attorney General and one statistician to manage OAG’s preclearance responsibilities under the bill, including ongoing demographics and statistical work to determine what jurisdictions are covered jurisdictions as well as for certain preclearance determinations and (2) to implement a tracking system to facilitate data collection and analysis.

The estimate is intended to reflect an approximate minimum amount of additional resources needed to implement the bill. OAG advises it needs two assistant Attorneys General (instead of the one assistant Attorney General reflected in this estimate) to handle the office’s preclearance responsibilities; however, it is unclear whether that level of staffing is needed. Depending on the amount of litigation and preclearance work that results from the bill, the Circuit Court for Anne Arundel County (partially paid for by the State) may also need additional resources; however, any potential increased costs for the court have not been quantified.

The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$304,368
Tracking System	40,000
Operating Expenses	<u>15,290</u>
Total FY 2026 State Expenditures	\$359,658

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Local Fiscal Effect: Local government expenditures may increase beginning in fiscal 2026, as a result of (1) for jurisdictions determined to be covered jurisdictions, any costs associated with submitting covered policies for preclearance, and any litigation, and (2) any increase in local court administration costs for the Circuit Court for Anne Arundel

County associated with litigation and preclearance under the bill. However, the extent to which local government expenditures increase cannot be reliably estimated.

Additional Information

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

Designated Cross File: None.

Information Source(s): Baltimore, Cecil, and Frederick counties; Maryland Municipal League; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland State Board of Elections; Department of Legislative Services

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