



county attorney and summoned before the Grand Jury who will return indictments against all persons determined to have voted illegally.

**Section 2:**

Prior to voting a provisional ballot, the voter must execute a provisional voter's affirmation affirming the following:

- The voter is a United States citizen;
- The voter is qualified to vote in that precinct;
- The voter's name for which he or she is generally known by or the name is as stated on his or her voter registration card;
- The voter's date of birth;
- The voter's current residential address, and if different from the voter's current address, the voter's residential address prior to the closing of the registration books and the date the voter moved;
- The voter has not voted and will not vote in another precinct;
- The voter understands that making a false statement is punishable as perjury.

Once the provisional voter's affirmation is complete, the voter then signs the "Provisional Ballot Roster" before proceeding to a private area to cast his or her provisional ballot. The election officer will provide the circumstance for issuing the provisional ballot on the roster. The voter shall place the completed ballot inside an envelope, then place that envelope inside another envelope along with the affirmation to be deposited into a locked ballot box that will be returned to the county clerk's office. The provisional voter may spoil up to two provisional ballots and shall not be issued more than three. The voter shall be given an information sheet explaining his or her rights to contact the county clerk to learn if the ballot was counted and if not, the reason why.

The county board of elections shall meet at 8:00 on the day following any primary or election to determine the eligibility of each voter casting a provisional ballot. Eligible or ineligible shall be indicated on the outer envelop. Once all eligibility determinations are made, the inner envelop is removed from the envelopes deemed eligible and placed in a ballot box. After shaking the box to redistribute the ballots, the county board of elections shall open the ballot box and count the ballots.

Each county clerk is responsible for having enough provisional ballots and instructions for casting a provisional ballot, and having them at each precinct one hour one hour prior to poll opening. The county board of elections shall keep a record by identifying number, of all provisional ballots used for votes cast by provisional voters.

HB 568 provides for the following crimes regarding provisional ballots and voter affirmations:

- Any election officer who fails to prepare or furnish a provisional ballot shall be guilty of a Class A misdemeanor.
- Any person that signs a name other than his or her or makes a false statement on an application for a provisional voter affirmation is guilty of a Class D felony.

**The fiscal impact regarding provisional ballots is expected to be minimal to significant depending on the percentage of registered voters in a county and the number of provisional ballots printed.**

According to Harp Enterprises, a vendor servicing 96 Kentucky counties, it costs between \$12 and \$15 per precinct in total to print provisional ballots for primary and general federal elections. Assuming 3,659 precincts (November 2019 General Election), the aggregate cost to counties currently ranges from \$43,900 to \$54,900 per even-numbered calendar year.

Due to using provisional ballots for state and local races, provisional ballots will need to be printed to accommodate independent voters for nonpartisan local and judicial primaries (usually just two sets of ballots for Democrats and Republicans are printed). Also, provisional ballots will vary throughout the counties. While this in itself will not cause an increase in the number of ballots printed, the process of printing will be more labor-intensive, which will further increase printing costs.

Depending on the number of essential service personnel opting for in-person absentee voting, the clerk's office might need additional staffing to implement in-person absentee voting days. Likewise, a significant increase in mail-in absentee ballots might generate a need for personnel. This would affect the larger counties more so due to the greater number of essential service personnel. Additionally, there will be training involved and possible cost related to additional personnel if these procedures can't be absorbed by current staff. A dedicated voting booth will be necessary for the provisional ballots and supplemental ballots. If a booth isn't currently available, one will need to be purchased.

The impact to local jails as a result of Section 14 and expanding the violations to include violations against provisional ballots are likely be minimal. The fiscal impact associated with Class A misdemeanors and Class D felons are explained below.

A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

**Part III: Differences to Local Government Mandate Statement from Prior Versions**

Part II, above, pertains to the bill as introduced.

**Data Source(s):** LRC Staff; Kentucky Department of Corrections

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