



[SF 413](#) – Elections (LSB2298SV)

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Fiscal Note Version – New

Description

[Senate File 413](#) relates to the conduct of elections, including absentee ballots and voter list maintenance activities, and makes penalties applicable. The Bill takes effect upon enactment.

Election Misconduct and Applicable Penalties (Sections 1-2, 5-9, 28, 52)

Senate File 413 creates penalties for election officials who willfully fail to perform duties. Specifically, the Bill changes the following offenses to apply to the individuals specified:

- *Election misconduct in the first degree* — Election officials who fail to perform duties prescribed in Iowa Code chapters [39](#) through [53](#), with the exception of voter registration maintenance; fail to follow or implement guidance issued by the Secretary of State's (SOS) Office; or perform duties in a way that hinders or disregards the object of the law.
- *Election misconduct in the second degree* — Election officials who fail to adequately perform voter list maintenance as found through an audit by the SOS Office and investigated by the relevant county attorney and Attorney General.
- *Election misconduct in the third degree* — Election officials who interfere with a person who is allowed to be at a polling place.

The Bill also applies election misconduct in the third degree to a person who returns a voted absentee ballot, including to a ballot drop box, who is not the registered voter, an individual who lives in the same household as the registered voter, an immediate family member of the registered voter, a caregiver of the registered voter, or an election official assisting a registered voter who became a patient, tenant, or resident of a hospital, assisted living program, or health facility. Election misconduct in the third degree is also applied to a person who makes a false or untrue statement that an absentee ballot was returned by a prohibited person.

Senate File 413 also requires the SOS Office to issue a fine of up to \$10,000 to county commissioners upon issuance of a technical infraction. A county commissioner who does not pay a fine that was not dismissed pursuant to Iowa Code chapter [17A](#) is to be suspended from office for a period not to exceed two years. The Bill requires the Attorney General and county attorney to investigate allegations of election misconduct for prosecution under Iowa Code chapter [721](#) and submit the results to the SOS Office.

Other Provisions

Senate File 413 also includes the following changes:

- Prohibits nominations by a nonparty political organization for a person who was nominated by a political party for the same office in the same election.
- Changes signature requirements for nomination petitions and changes the required convention or caucus size for nominees from nonparty political organizations.
- Allows the SOS Office to issue guidance on elections and eliminates home rule power for county commissioners.

- Requires the SOS Office to verify all voters in the statewide voter registration file annually and submit a report to the General Assembly regarding the number of registrations canceled.
- Requires the SOS Office to update voter registration information using the Electronic Registration Information Center (ERIC).
- Requires each county commissioner to participate in the United States Postal Service National Change of Address (NCOA) Program, send a notice to and mark as inactive a voter who has not participated in the most recent general election and has not reported a change of address or registered again, and report inactive records annually to the SOS Office.
- Requires the SOS Office to conduct an audit of counties' voter registration maintenance activities in April of each odd-numbered year.
- Allows oversight of county commissioners by the SOS Office during election periods.
- Requires replacement of individuals on a precinct election board following a party affiliation change.
- Prohibits individuals who are standing for election on the ballot from assisting voters in casting a ballot.
- Authorizes law enforcement to take reasonable actions to prevent violation of Iowa Code chapter [50](#).
- Changes the number of days prior to an election that any registered voter can apply for an absentee ballot from 120 days to 70 days and prohibits county commissioners from sending absentee ballot applications to a voter.
- Prohibits absentee ballot applications from being provided with any field prefilled, excluding the type and date of the election.
- Requires the county commissioner to notify a voter within 24 hours that the absentee ballot application cannot be processed if the application is received between 5:00 p.m. on the 11th day before an election and 5:00 p.m. on the 7th day before an election.
- Changes the number of days prior to an election that an absentee ballot can be mailed to a voter from 29 days to 18 days and prohibits an absentee ballot being mailed to any person who did not apply for an absentee ballot.
- Changes the number of days before an election for in-person absentee voting at a county commissioner's office and satellite locations from 29 days to 18 days and eliminates the county commissioners' ability to establish satellite absentee voting stations at their discretion.
- Removes a postmark as a method of verifying the date when an absentee ballot was mailed.
- Limits drop boxes to one per county and establishes guidelines.
- Changes the process for a county commissioner to notify a voter that an absentee ballot is incomplete and establishes guidelines for submission of an affidavit to the special voters precinct board.
- Specifies that an affidavit that lacks the voter's signature is to be considered incomplete.
- Directs counties and special voters precinct boards to record absentee ballot statistics, including additional tracking requirements, and requires submission to the SOS on a daily basis and following an election.
- Makes certain changes to county elections.

The LSA has not yet received requested data regarding the changes associated with the above provisions of the Bill. As a result, fiscal impact for these changes cannot be determined at this time and this fiscal note will updated when the requested data is received. The fiscal impact discussed below relates only to the added penalties of election misconduct.

Background

- There are approximately 2.1 million active, registered voters in Iowa. During the 2020 general election, approximately 1.0 million voters cast an absentee ballot. **Table 1** below provides additional voting information.

Table 1 — Secretary of State’s Office General Election Turnout Report

| General Election | Election Day Voters | Absentee Voters | Total Voters | Active/Registered Voters | % Active Voter Turnout | Inactive/Registered Voters | % Total Voter Turnout |
|------------------|---------------------|-----------------|--------------|--------------------------|------------------------|----------------------------|-----------------------|
| 2016 | 934,219 | 647,152 | 1,581,371 | 2,000,567 | 79.1% | 172,418 | 72.8% |
| 2018 | 787,074 | 547,205 | 1,334,279 | 2,011,617 | 66.3% | 156,297 | 61.6% |
| 2020 | 698,557 | 1,001,573 | 1,700,130 | 2,094,770 | 81.2% | 148,988 | 75.8% |

NOTE: Number of active and inactive voters for 2016 are as of November 8, 2016; 2018 numbers are as of November 6, 2018; and 2020 numbers are as of November 3, 2020.

- Per Iowa Code chapter [47](#), the Secretary of State’s (SOS) Office is designated as the State commissioner of elections and Iowa county auditors are designated as the county commissioners of elections.
- Under current law, most violations of election law under Iowa Code chapters 39 through 53 are prosecuted under Iowa Code chapter [39A](#). According to the Criminal and Juvenile Justice Planning Division (CJJP) of the Department of Human Rights, in FY 2019 and FY 2020, there were five convictions of election misconduct in the first degree and seven convictions of election misconduct in the third degree.
- Election misconduct in the first degree is a Class D felony, which is punishable by confinement for no more than five years and a fine of at least \$1,025 but not more than \$10,245.
- Election misconduct in the second degree is an aggravated misdemeanor, which is punishable by confinement for no more than two years and a fine of at least \$855 but not more than \$8,540.
- Election misconduct in the third degree is a serious misdemeanor, which is punishable by confinement for no more than one year and a fine of at least \$430 but not more than \$2,560.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends, prisoner length of stay (LOS), revocation rates, plea bargaining, and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.

Correctional Impact

The correctional impact of SF 413 cannot be determined. The Bill establishes new criminal provisions, and no historical data exists to make a reliable estimate.

Table 2 below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions ranging from serious misdemeanors to Class D felonies. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system.

Table 2 — Sentencing Estimates and LOS

| Conviction Offense Class | Percent to Prison | Avg Length of Stay in Prison (months) | FY 20 Marginal Cost/Day in Prison | Percent Ordered to Probation | Avg LOS on Probation | Avg Cost Per Day on Probation | Percent Sentenced to CBC Residential Facility | FY 20 Marginal Cost CBC Per Day | Percent Ordered to County Jail | Avg Length of Stay in County Jail | Marginal Cost Per Day | Avg LOS on Parole | FY 20 Average Cost Per Day Parole |
|----------------------------------|-------------------|---------------------------------------|-----------------------------------|------------------------------|----------------------|-------------------------------|---|---------------------------------|--------------------------------|-----------------------------------|-----------------------|-------------------|-----------------------------------|
| Class D Felony (Persons) | 77.0% | 16.0 | \$20.33 | 47.8% | 30.5 | \$5.38 | 10.5% | \$14.78 | 38.6% | N/A | \$50.00 | 11.5 | \$5.38 |
| Aggravated Misdemeanor (Persons) | 43.0% | 7.1 | \$20.33 | 51.7% | 20.2 | \$5.38 | 3.3% | \$14.78 | 70.7% | N/A | \$50.00 | 6.0 | \$5.38 |
| Serious Misdemeanor | 2.0% | 5.0 | \$20.33 | 56.0% | 13.4 | \$5.38 | 1.0% | \$14.78 | 69.0% | N/A | \$50.00 | 2.4 | \$5.38 |

Minority Impact

Of the 12 election misconduct convictions in FY 2019 and FY 2020, 83.3% were committed by Caucasian offenders and 16.7% were committed by African American offenders. In FY 2020, Caucasians and African Americans made up 89.9% and 4.1% of the adult population of the State of Iowa, respectively.

Senate File 413 establishes new criminal provisions to include actions not previously penalized under Iowa Code chapter [39A](#). As a result, the CJJP cannot use prior existing data to estimate the minority impact. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

Fiscal Impact

Senate File 413 establishes new criminal provisions, and the resulting cost to the justice system cannot be estimated. **Table 3** shows estimates for the average State cost per offense class type. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections (DOC) for one additional conviction. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 3 — Average State Cost Per Offense Class Type

| Offense Class | Total Minimum Cost | Total Maximum Cost |
|------------------------|--------------------|--------------------|
| Serious Misdemeanor | \$410 | \$7,500 |
| Aggravated Misdemeanor | \$3,700 | \$7,800 |
| Class D Felony | \$7,700 | \$13,500 |

The DOC has stated that crimes against professionals are rare and assumes that county commissioners and election officials are likely to comply with the Bill. It is assumed that county commissioners will adhere to the new provisions and little revenue will be generated to the General Fund as a result of technical infraction fines.

There may be additional costs to the Attorney General's office for expenses incurred as a result of increased investigations of election misconduct; however, those costs cannot be determined until additional information is received.

As stated previously, the fiscal impact of the various provisions outlined on pages 1 and 2 of this fiscal note cannot be estimated at this time. This fiscal note will be updated as more information is received.

Sources

Department of Human Rights, Division of Criminal and Juvenile Justice Planning
Department of Corrections

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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