



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1341

(Patron – Eisenberg)

Date Submitted: 1/8/04

LD #: 04-0019208

Topic: Punishment for conviction of a Class 1 felony

Proposed Change:

This proposal amends § 18.2-10 such that the death penalty may be applied only to persons who were 18 years of age or older at the time of the offense. Currently, the death penalty may be applied to persons age 16 or older at the time the offense was committed. In cases of Class 1 felonies, when the convicted person was under age 16 at the time of the offense, the punishment is life imprisonment.

Data Analysis:

Based on FY1992 through CY2001 Pre/Post-Sentence Investigation (PSI) data, 18 persons aged 16 or 17 were convicted of capital murder. According to the data, none of these were sentenced to death.

Impact of Proposed Legislation:

Although the proposed legislation potentially could increase the state-responsible (prison) bed space needs of the Commonwealth by eliminating the death penalty for those convicted of a capital murder committed at the age 16 or 17, no impact is expected during the next six years for the following reasons. First, while data indicate that an average of two offenders per year would no longer be eligible for the death penalty, none of the eligible offenders sentenced in the ten years of PSI data referenced above were sentenced to death. Second, according to the Department of Corrections, inmates remain on death row for an average of 6.3 years prior to execution (based on the last 52 offenders who have been executed), which suggests that the potential impact of the proposal would most likely occur outside the six-year forecast window specified by § 30-19.1:4 for fiscal impact analyses. Third, with the elimination of the death penalty for persons who commit a capital crime while under the age of 18, a young offender could serve a portion of his life sentence in a Department of Juvenile Justice facility, instead of a death row bed in a prison facility (see below). Consequently, the number of beds necessary under the proposal is not expected to increase over the next six years.

Capital murder convictions are not covered by the sentencing guidelines as the primary, or most serious, offense at conviction. No adjustment to the guidelines would be necessary under the proposal.

The Department of Juvenile Justice cannot determine the impact that the proposed legislation will have on Juvenile Correctional Center (JCC) bed space needs. Although the impact is believed to be negligible, any offender affected by the proposal may be ordered by the court, under paragraph A1 of §16.1-272, to serve a portion of their sentence (up to age 21) in a JCC. Currently, a person, aged 16 to less than 18, sentenced to death would not be placed in a JCC.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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