



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1311

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – Gilbert)*

LD #: 06-1388306

Date: 1/27/2006

Topic: Capital murder of a person assisting in a criminal investigation

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

#### Summary of Proposed Legislation:

The proposal amends § 18.2-31 to make it a capital offense, punishable by life imprisonment or death, for a person to willfully, deliberately and with premeditation kill any person as punishment for testifying in a criminal case, or to prohibit a person from testifying. It would also be a capital offense if a person is killed as punishment for assisting in a criminal investigation or prosecution, or to prevent a person from assisting in a criminal investigation or prosecution of a crime

Currently, there are no provisions in Virginia's homicide statutes mandating specific penalties when the victim is a person who testified or assisted in a criminal investigation or prosecution. However, individuals committing this crime can be convicted of first-degree murder, a Class 2 felony under § 18.2-32.

#### Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, 25 offenders were convicted of completed capital murder under § 18.2-31. Of these, 15 offenders (60%) were sentenced to life imprisonment and 10 (40%) received the death penalty.

The FY2002 and FY2003 PSI data also yielded 184 convictions for completed first-degree murder under § 18.2-32. All of these offenders were sentenced to state-responsible (prison) terms (median sentence of 40 years).

#### Impact of Proposed Legislation:

**State adult correctional facilities.** The proposed legislation may have an impact on the bed space needs of the Commonwealth. Expanding the definition of capital murder to include the premeditated killing of a person assisting in a criminal investigation would result in longer prison sentences or death sentences for offenders convicted of this crime. However, the median sentence for a first degree murder

is 40 years; the impact on bed space would only begin to be felt by the correctional system after the ordinary term for a first degree murder had been satisfied.

Because defendants under the proposal typically will serve sentences in excess of the 6-year period utilized for this forecasting analysis, the proposal, initially, is not expected to have an impact on the prison bed space needs of the Commonwealth. The true impact of the proposal is not expected to be felt until well beyond the 6-year window utilized for this analysis.

**Local adult correctional facilities.** No impact on local-responsible (jail) bed space needs in Virginia is expected; these are offenders who serve their time in prison.

**Adult community corrections programs.** The proposal is not expected to have an impact on adult community corrections programs.

**Virginia's sentencing guidelines.** The sentencing guidelines do not cover capital murder offenses defined in § 18.2-31. Attempted capital offenses are covered by the guidelines when there is an accompanying conviction for a crime with a maximum penalty of life imprisonment; in those situations, the attempted capital murder is an additional offense that augments the guidelines recommendation. No adjustment to the guidelines is necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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**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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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