



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 782

(Patron – Gilbert)

LD #: 06-6144306

Date: 12/19/2005

Topic: Elimination of the “triggerman rule” and sentencing in capital cases

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 § 18.2-18 to change how offenders convicted as principals in the second degree or accessories before the fact are punished in most capital cases.

Currently, § 18.2-18 specifies that principals in the second degree and accessories before the fact may be indicted, tried, convicted and punished in all respects as a principal in the first degree. This provision provides an exception for certain types of capital murder cases. An offender convicted as a principal in the second degree or an accessory before the fact to capital murder (not including killing for hire, killing at the direction of someone in a criminal drug enterprise, or killing at the direction of someone engaged in a terrorist act) is to be indicted, tried, convicted and punished for first-degree murder.

The proposal returns § 18.2-18 to the language in place prior to the 1977 Acts of the General Assembly (Chapter 478) and would allow all persons convicted as a principal in the second degree or an accessory before the fact to a capital murder to be sentenced to life or death.

Analysis:

Data available to the Commission do not contain sufficient detail to identify the number of offenders convicted as a principal in the second degree or an accessory before the fact in a capital case.

Impact of Proposed Legislation:

Adult correctional facilities. The proposed legislation is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified in § 30-19.1:4 for legislative impact statements.

By eliminating the current exception for the punishment of principals in the second degree and accessories before the fact in certain capital cases, the proposal could increase the number of offenders

receiving a life sentence as well as offenders receiving the death penalty. However, offenders who may be affected by this proposal can be convicted currently of a Class 2 felony (carrying a maximum penalty of life in prison). Nearly all offenders convicted of a Class 2 felony receive sentences in excess of six years. Therefore, any potential impact associated with additional offenders with life sentences would likely occur beyond the six-year forecast window required by § 30-19.1:4.

The potential impact, if any, associated with increased death penalty cases would lead to a reduction in state-responsible (prison) bed space needs, if offenders affected by the proposal were executed during the six-year forecast window. Department of Corrections (DOC) data indicate that although inmates remain on death row for an average of 6.1 years prior to execution (based on the 56 offenders who were executed prior to December 2004), 57% of recent executions occurred within six years of the offender entering death row.

For these reasons, no increase in state-responsible (prison) beds is expected over the next six years.

Adult community corrections programs. Due to the length of sentences expected for principals in the second degree and accessories before the fact in the affected capital crimes, no impact is expected on adult community corrections.

Virginia's sentencing guidelines. No adjustment to the guidelines would be 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. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to affect juvenile detention facility bed space needs.

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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