



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1116
Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Rerras)

LD #: 07-7806804

Date: 1/18/2007

Topic: Capital murder of a judge or witness

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 expand the crimes defined as capital murder to include the willful, deliberate and premeditated killing of a justice, judge, or witness under subpoena (if the murder is committed for the purpose of interfering with the person's official duties or other duties related to a case).

Currently, under § 18.2-10, an offender convicted of capital murder who was at least 18 years of age¹ at the time of the offense and is not found to be mentally retarded may be sentenced to either death or life imprisonment. Conspiracy to commit an offense punishable by death is a Class 3 felony (§ 18.2-22), while an attempt to commit such an offense is a Class 2 felony (§ 18.2-25).

Analysis:

According to the Department of Corrections (DOC), there were 19 Virginia inmates² serving under a death sentence as of November 30, 2006. Since January 1, 2004, five offenders have been received onto death row. DOC data indicate that inmates remain on death row for an average of 6.2 years prior to execution (based on the last 61 offenders who have been executed); however, the length of time spent on death row has been declining in recent years. For the last 20 inmates who have been executed, the average stay on death row was just over 5 years.

¹ In *Roper v. Simmons*, the U.S. Supreme Court recently held “(t)hat execution of individuals who were under 18 years of age at the time of their capital crimes is prohibited by the Eighth and Fourteenth Amendments” (125 S. Ct. 1183 (2005), p. 1183).

² The sentence of one inmate was commuted to life imprisonment on November 28, 2005.

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 by § 30-19.1:4 for legislative impact statements. By expanding capital murder provisions, the proposal could increase the number of offenders receiving a life sentence as well as the number of 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.

Local adult correctional facilities. The proposal will not affect local-responsible (jail) bed space needs.

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

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 will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the proposal will not 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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