

## Department of Planning and Budget 2009 Fiscal Impact Statement

**1. Bill Number**    **HB 2358**

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron**            Gilbert

**3. Committee**    House Courts of Justice

**4. Title**            Triggerman rule

**5. Summary/Purpose:**

Capital murder is punishable by death or life imprisonment. First degree murder is punishable with a sentence of 20 years to life.

Under current law, only the principal in the first degree (the “triggerman”) can be tried for capital murder. An accessory before the fact or principal in the second degree to a capital murder can be convicted for, at most, first degree murder, rather than capital murder. The exceptions to this rule would be a killing for hire, a killing at the direction of a person engaged in a continuing criminal drug enterprise, or a killing at the direction of someone engaged in a terrorist act. In those cases involving exceptions an accessory before the fact or principal in the second degree can be charged and convicted for capital murder, the same as the principal in the first degree.

The proposed legislation would retain the exceptions to the triggerman rule noted above. It would also expand the capital murder provision to include principals in the second degree and accessories before the fact in other instances of capital murder, in certain circumstances. A principal in the second degree to a capital murder could be tried and convicted for capital murder if he had the same intent as the principal in the first degree to commit a willful, deliberate, and premeditated killing. An accessory before the fact to a capital murder could be tried and convicted for capital murder if he ordered or directed the willful, deliberate, and premeditated killing. Otherwise, the principal in the second degree or accessory before the fact could be tried and convicted for first degree murder, at most, which is the case with current law.

**6. Fiscal Impact:** Preliminary. See Item 8.

**7. Budget amendment necessary:** None.

**8. Fiscal implications:**

Anyone committing these offenses would be likely to receive a lengthy sentence under current statutory provisions. Therefore, the Virginia Criminal Sentencing Commission has determined, pursuant to §30-19.1:4 of the Code of Virginia, that this legislation would not

have any impact on the number of inmates in prison during the six-year forecast period set out in the section.

**9. Specific agency or political subdivisions affected:**

Department of Corrections

**10. Technical amendment necessary:** None.

**11. Other comments:** None.

**Date:** 01/20/2009 / rwh

**Document:** G:\LEGIS\Fis-09\Hb2358.Doc Dick Hall-Sizemore