

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: SB 855

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

2. Patron: Marsden

3. Committee: Passed both houses

4. Title: Imposition of the death penalty; mentally retarded

5. Summary:

Under current law, the death penalty cannot be imposed on a person convicted of a capital crime who is determined to be mentally retarded. "Mentally retarded" is defined as someone who (i) has significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning that is at least two standard deviations below the mean and (ii) has significant limitations in adaptive behavior.

The proposed legislation would require that the measure of intellectual functioning be reported as a range of scores calculated by adding and subtracting the standard error of measurement identified by the test publisher to the defendant's earned score. The legislation implements a recent U.S. Supreme Court decision that a state statute that only takes into consideration a strict cutoff of the measure of intellectual functioning, without regard to the limitations of the instrument, was unconstitutional.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final. See Item 8 below.

8. Fiscal Implications:

The proposed legislation could result in a person being exempted from the death penalty when he or she would not be so exempted under the current law. However, because state courts are obliged to follow U.S. Supreme Court precedents in their sentencing and the proposal reflects the Supreme Court ruling, the Sentencing Commission has determined that it is not expected to increase the need for prison beds during the time period set out in § 30-19.1:4, Code of Virginia.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/27/2015

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