

Department of Planning and Budget 2016 Fiscal Impact Statement

1. Bill Number: HB 794

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Leftwich

3. Committee: House Courts of Justice

4. Title: Death penalty

5. Summary:

The proposed bill would prohibit the imposition of the death penalty in a capital offense case on anyone who had a severe mental illness at the time of the offense. In such a case, the offender would be sentenced to life imprisonment. The issue of whether the offender had a severe mental illness at the time of the offense would be determined by the jury, or judge in the case of a bench trial, at the sentencing phase of the trial and the defendant would have the burden of proving by a preponderance of the evidence that such a condition existed.

The legislation defines “severe mental illness” and sets out the procedures to be followed if such a claim is raised by the defendant. It also provides that, if the defendant is financially unable to pay for expert assistance in setting for his claim, the court shall appoint one or more qualified mental health experts to assess whether the defendant has a severe mental illness at the time of the offense.

6. Budget Amendment Necessary: Yes. Item 394.

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

Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|----------------|-------------|
| 2017 | \$50,000 | General |
| 2018 | \$0 | |
| 2019 | \$0 | |
| 2020 | \$0 | |
| 2021 | \$0 | |
| 2022 | \$0 | |

8. Fiscal Implications:

Because the legislation could result in an offender receiving a life sentence instead of being executed, it could result in an increase in the need for prison beds. Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

If the court appoints mental health experts to assess whether the defendant had a severe mental illness at the time of the offense, the costs of those experts would be borne by the Criminal Fund. Due to the uncertainty of how many cases there would be and the costs of the experts, it is not feasible to project the increased demand on the Criminal Fund that might result from this legislation.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Office of the Executive Secretary of the Supreme Court
Circuit Courts

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/12/2016

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