

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: HB 1522

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

2. Patron: Leftwich

3. Committee: House Courts of Justice

4. Title: Capital punishment

5. Summary:

The proposed legislation would prohibit the imposition of the death penalty for anyone convicted of a capital offense, but who had a “severe mental illness” at the time of the offense. The only sentence could be one of life imprisonment.

The legislation defines “severe mental illness” as a mental disorder that include active psychotic symptoms that substantially impair a person’s capacity to (i) appreciate the nature and consequences of his conduct, (ii) exercise rational judgment; or (iii) conform his conduct to the requirements of law. It stipulates that the term does not include a mental disorder attributable to the acute effects of voluntary use of alcohol or any drug. The defendant would have the burden of proving by a preponderance of the evidence that he had a severe mental illness at the time of the offense.

Furthermore, if the defendant were financially unable to pay for expert assistance in preparing his defense that he had a severe mental illness, the legislation would require the court to appoint one or more qualified mental health experts to assess whether or not the defendant had a severe mental illness and to assist the defense in the preparation and presentation of information concerning such severe mental illness. The mental health expert appointed would be required to be (i) a psychiatrist, a clinical psychologist, or an individual with a doctorate degree in clinical psychology and (ii) qualified by experience and by specialized training, approved by the Commissioner of Behavioral Health and Developmental Services, to perform forensic evaluations.

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:

Any qualified mental health expert appointed by the court to assist a defendant in presenting his defense that he had a severe mental illness at the time of the commission of a capital crime would be compensated from the Criminal Fund. Due to the uncertainty concerning the number of cases in which such an appointment would be necessary and the lack of information regarding the costs of such expert assistance, it is not possible to project the fiscal impact on the Criminal Fund.

With the elimination of the death penalty in some instances, the proposed legislation could result in the increase for additional prison beds, although the extent of such increase cannot be projected.

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 780 of the 2016 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected:

Executive Office of the Supreme Court
Circuit Courts
Indigent Defense Commission
Department of Behavioral Health and Developmental Services

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 1/27/2017