



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 2615 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Pillion)

LD #: 19106312

Date: 2/11/2019

Topic: Punishment for Class 1 felony offenses

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Direct Care:**  
None (\$0) \*
  - **Juvenile Detention Facilities:**  
None (\$0) \*
- \* Provided by the Department of Juvenile Justice

#### Summary of Proposed Legislation:

The proposal amends § 18.2-31 to specify that the punishment for capital murder by a person who was 18 years or age or older at the time to the offense shall be no less than a mandatory minimum term of life in prison.

Currently, under § 18.2-10, an offender convicted of a Class 1 felony who was at least 18 years of age at the time of the offense and is determined not to have an intellectual disability may be sentenced to either death or life imprisonment. For individuals who were under the age of 18 at the time of the offense or who have an intellectual disability, the penalty is life imprisonment. Current *Code* does not expressly prohibit the court, when imposing a sentence of life for a capital murder conviction, from suspending a portion of the imposed term.

#### Analysis:

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2000 through FY2018 (July 1, 1999, through June 30, 2018), there were 334 convictions for any completed act of capital murder under § 18.2-31<sup>1</sup>. Examination of the data for that time period did not reveal any cases involving capital murder of a police officer in which the judge suspended time from a life sentence.

#### Impact of Proposed Legislation:

**State 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

<sup>1</sup> A number of cases identified as completed capital murder in the Circuit Court CMS were excluded after review of other criminal justice data systems indicated that the defendant had been charged with an attempted or conspired capital murder or that the capital murder charge had been reduced to a lesser offense, such as first-degree murder, at the time of conviction.

§ 30-19.1:4 for legislative impact statements. All offenders convicted of capital murder receive sentences in excess of six years. Therefore, any potential impact associated with a mandatory life sentence would occur beyond the six-year forecast window required by § 30-19.1:4.

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

**Adult community corrections programs.** The proposal will not affect adult community corrections programs.

**Virginia's sentencing guidelines.** Virginia's sentencing guidelines do not cover completed acts of capital murder. Attempted capital offenses are covered by the guidelines when there is an accompanying conviction for a crime with a maximum penalty of life imprisonment; in those situations, the attempted capital murder is an additional offense that augments the guidelines recommendation. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice, the proposal is not expected to impact direct care (juvenile correctional center or alternative commitment placement) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal is not expected to impact the bed space needs of juvenile detention facilities.

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**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 \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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