

Department of Planning and Budget 2019 Fiscal Impact Statement

1. **Bill Number:** SB1231

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

2. **Patron:** Ebbin

3. **Committee:** Courts of Justice

4. **Title:** Defendants; disposition of unrestorably incompetent; capital murder.

5. **Summary:** This bill provides that when a defendant charged with capital murder is determined to be unrestorably incompetent, the court may order that the defendant receive medically appropriate treatment rather than treatment designed to restore competency. The bill requires that hearings be held upon the request of such defendant or his counsel at yearly intervals for five years and no more than biennially thereafter, or at any time that the director of the treating facility or his designee submits a competency report to the court that the defendant's competency has been restored. Under current law, hearings are held every six months for an incompetent defendant receiving treatment to restore competency. The bill also provides that no unrestorably incompetent defendant charged with capital murder shall be released except pursuant to a court order.

6. **Budget Amendment Necessary:** No.

7. **Fiscal Impact Estimates:** See 8 below.

8. **Fiscal Implications:** This bill allows the courts to order that defendants charged with capital murder who are deemed unrestorably incompetent receive medically appropriate treatment in a "secure facility". While the Department of Behavioral Health and Developmental Services (DBHDS) operates two such units/facilities - Central State Hospital (CSH) and the Virginia Center for Behavioral Rehabilitation (VCBR) - the maximum security unit at CSH is the only facility with appropriately trained staff to work with this population.

Currently, DBHDS has two unrestorably incompetent defendants for capital murder in its custody, with one in the maximum security unit at CSH and the other in civil commitment at Western State Hospital. While CSH currently has the capacity to accept the transfer, it should be noted that the average cost to treat an individual in the maximum security unit at CSH is higher than the average cost of care in a civil unit. In FY 2018, the cost in CSH's maximum security unit was \$1,260 per day, or \$459,900 per year, while the cost at WSH for FY 2018 was \$794, or \$289,810 per year. Additionally, because this legislation amends the criteria for commitment to be "continued treatment as medically appropriate", it could result in an increase of the number of defendants in DBHDS custody.

9. Specific Agency or Political Subdivisions Affected: Department of Behavioral Health and Developmental Services

10. Technical Amendment Necessary: No.

11. Other Comments: None.