



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 4028

(Patron – Gilbert)

LD #: 19200183

Date: 07/02/2019

Topic: Punishment for select capital murder 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(B) to specify that the punishment for capital murder by a person who was 18 years of age or older at the time of the offense shall be no less than a mandatory minimum term of life in prison, in cases of:

- The willful, deliberate, and premeditated killing of more than one person as part of the same act or transaction [§ 18.2-31(A,7)]; or,
- The willful, deliberate, and premeditated killing of more than one person within a three-year period [§ 18.2-31(A,8)].

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. The 2019 General Assembly amended § 18.2-31 to expressly prohibit the court, when imposing a sentence of life for a capital murder conviction, from suspending a portion of the imposed term in cases of capital murder of law enforcement officers or fire marshals. The proposal would expand this express prohibition to include additional capital murder offenses as cited above.

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 § 18.2-31¹. Only one case within this time frame, a capital murder with abduction, involved a suspended life sentence. The offender in that case was sentenced to an active term of 38 years.

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 § 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.

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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¹ 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.