

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB116

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

2. Patron: Favola

3. Committee: Committee on the Judiciary

4. Title: Death penalty; severe mental illness.

5. Summary: Under current law, 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 anyone who was under the age of 18 at the time of the offense or who has an intellectual disability, the penalty is life imprisonment.

This proposed bill provides that a defendant in a capital case who had a severe mental health illness is not eligible for the death penalty. The proposal defines “severe mental illness” and sets out evaluation procedures for determining whether the defendant qualifies, including court appointment of one or more qualified mental health experts to assess the defendant and to assist the defense in preparing and presenting information concerning the defendant’s severe mental illness. The bill requires that such mental health expert must be (a) a psychiatrist, a clinical psychologist, or an individual with a doctorate degree in clinical psychology and (b) qualified by experience and by specialized training, approved by the Commissioner of Behavioral Health and Developmental Services, to perform forensic evaluations. The proposal also sets out procedures for the presentation of evidence during trial.

6. Budget Amendment Necessary: No

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

8. Fiscal Implications: According to the Department of Corrections, there were two Virginia inmates serving death sentences as of December 9, 2019. The Virginia Criminal Sentencing Commission (VCSC) reports that, according to the Circuit Court Case Management System (CMS) for FY 2014 through FY 2019, 38 offenders were convicted of a completed act of capital murder under § 18.2-31 (aggravated murder). Of these, 36 were given a sentence of life in prison. For the remaining two offenders, the court suspended the life sentence and ordered prison terms of 36 and 38 years, respectively.

The proposed legislation would require, for a defendant charged or convicted of a capital murder who is financially unable to pay for expert assistance, that the court must appoint one or more qualified mental health experts to assess the whether or not the defendant had a

severe mental illness at the time of the offense and to assist in the defense. It is expected that the cost for the court appointed expert witness would be supported by the Criminal Fund. However, the fiscal impact cannot be determined at this time.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$0. The amount is based on the projection that the legislation will not result in the need for additional prison beds. This legislation will not affect local-responsible (jail) bed space needs.

According the Department of Behavioral Health and Developmental Services, this bill is not expected to impact agency operations.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Department of Behavioral Health and Developmental Services, Commonwealth's Attorney, Courts

10. Technical Amendment Necessary: None

11. Other Comments: This bill is identical to HB280.