



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1812 ***(Patron – Marshall, R.G. and Black)***

Date Submitted: 1/6/2005

LD #: 05-3717396

Topic: Execution of pregnant inmates

Proposed Change:

This proposal adds § 19.2-310.02 to prohibit the execution of a female death row inmate while she is pregnant. The proposal requires the Department of Corrections (DOC) to promulgate regulations to ensure pregnancy testing during the 30 days prior to the execution date. If a female inmate is found to be pregnant, DOC must petition the sentencing court for a new execution date (at least 10 months later than the original date).

Currently, the death penalty may be applied to persons age 16 or older at the time the offense was committed, if the person is not determined to be mentally retarded pursuant to § 19.2-264.3:1.1.

Data Analysis:

According to the Virginia Department of Corrections (DOC), only one female has ever been executed in Virginia; this occurred in 1912. Currently, one inmate serving on death row is female. She was received onto death row June 3, 2003.

Impact of Proposed Legislation:

The proposed legislation is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth. The proposal delays, but does not prevent, the execution of a female death row inmate who is found to be pregnant.

Capital murder convictions are not covered by the sentencing guidelines as the primary, or most serious, offense at conviction. No adjustment to the sentencing guidelines would be necessary under the proposal.

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

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