



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 976 (Patron – Cline)

LD#: 14101996

Date: 12/10/2013

Topic: Punishment for accessories after the fact to certain offenses

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-19 to increase the penalty for being an accessory after the fact in the case of a homicide offense punishable by death or as a Class 2 felony. Under the proposal, the penalty is increased from a Class 1 misdemeanor to a Class 6 felony. For all other felony crimes, being an accessory after the fact would remain a Class 1 misdemeanor.

The list of homicide offenses in the *Code of Virginia* that are punishable by death or as a Class 2 felony includes completed or attempted capital murder (§§ 18.2-31 or 18.2-25), being an accessory before the fact to capital murder (§ 18.2-31), completed first degree murder (§ 18.2-32), and killing the fetus of another with premeditation (§ 18.2-32.2(A)).

Analysis:

According to Circuit Court Case Management System (CMS)¹ data for fiscal year (FY) 2012 and FY2013, 25 offenders were convicted of a total of 36 counts of completed or attempted capital murder or for being an accessory before the fact to capital murder. The most frequent offense (13 counts) was completed or attempted capital murder committed during a robbery or an attempted robbery. According to FY2012 and FY2013 Sentencing Guidelines data, 138 offenders were convicted of completed first degree murder, a Class 2 felony.

¹ Formerly referred to as the Court Automated Information System (CAIS).

Existing data sources do not contain sufficient detail to determine the number of accessory after the fact cases associated with a homicide offense punishable by death or as a Class 2 felony.

According to General District Court CMS data for FY2012 and FY2013, 208 offenders were convicted of accessory after the fact as the primary, or most serious, offense at conviction. The majority of these offenders (52%) did not receive an active term of incarceration to serve after sentencing. The remaining 48% were sentenced to a local-responsible (jail) term, with a median sentence of two months.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal would increase the penalty for being an accessory after the fact from a Class 1 misdemeanor to a Class 6 felony in certain circumstances. In this way, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the databases available to the Commission do not contain sufficient detail to estimate the number of convictions affected by the proposal. Therefore, the magnitude of the impact cannot be quantified.

Local adult correctional facilities. The proposal could also affect the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in additional felony convictions and subsequent supervision requirements, the proposal may affect adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. The proposed Class 6 felony would not be covered by the sentencing guidelines as the primary (most serious) offense in a sentencing event. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. While the Department of Juvenile Justice reports that the impact on the bed space needs of juvenile detention facilities cannot be determined, it is important to note that raising the penalty for the existing Class 1 misdemeanor offense to a Class 6 felony in certain cases would affect the Detention Assessment Instrument (DAI) score of the juvenile at intake, which may result in more detainments or admissions.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.