



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 79

(Patron – Stanley)

LD #: 22101412

Date: 12/20/2021

Topic: Mandatory minimum for Class 1 felonies

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: None (\$0) • Local Adult Correctional Facilities: None (\$0) • Adult Community Corrections Programs: None (\$0) 	<ul style="list-style-type: none"> • Juvenile Correctional Centers: None (\$0)* • Juvenile Detention Facilities: None (\$0)* <p>* Provided by the Department of Juvenile Justice</p>
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Summary of Proposed Legislation:

The proposal amends §§ 18.2-10 and 18.2-31 to establish a life mandatory sentence for Class 1 felonies. The mandatory term would apply to defendants 18 years of age or older who had no intellectual disabilities at the time of the offense.

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 may be sentenced to life imprisonment without the possibility of parole, good conduct allowances, earned sentence credits or conditional release. For individuals who were under the age of 18 at the time of the offense, the penalty is also life imprisonment. However, these defendants are eligible for parole after serving 20 years of a life sentence (§ 53.1-165.1). With one exception, current *Code* does not explicitly prohibit judges from suspending a portion of the sentence imposed for a Class 1 felony. The 2019 General Assembly amended § 18.2-31 to expressly prohibit the court, when imposing a sentence of life for a Class 1 felony, from suspending a portion of the imposed term in cases of capital murder of a law enforcement officer or fire marshal.

Analysis:

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2000 through FY2021 (July 1, 1999, through June 30, 2021), there were 343 convictions for a completed act of capital murder under § 18.2-31.¹ During this 22-year period, 225 offenders were convicted of these crimes. Of the 225 offenders, 11.1% were given a sentence of death. All but two of the remaining offenders were sentenced to life in prison. Two offenders convicted of completed capital murder within this time frame

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.

were given a life sentence that was suspended; the offenders in these two cases were sentenced to active prison terms of 36 and 38 years, respectively.

The 2021 General Assembly (Special Session I) abolished the death penalty in Virginia and renamed capital murder as aggravated murder, effective July 1, 2021.

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. Offenders convicted of aggravated murder receive sentences in excess of six years. Therefore, any potential impact associated with a life sentence following conviction for aggravated murder 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 currently cover completed acts of aggravated murder. Attempted aggravated murder 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 aggravated 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 of the Code of Virginia, 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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