

# Virginia State Crime Commission

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## Capital Murder

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2006

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During the 2006 Session of the Virginia General Assembly, there were three bills introduced in the House of Delegates to expand Virginia's capital murder statute: House Bill 782 (eliminating the "triggerman rule"), House Bill 1018 (killing a judge), and HB 1311 (killing a witness). All three bills passed the House of Delegates and then were continued in the Senate Courts of Justice Committee. The Senate Courts of Justice Committee referred, by letter, all three bills to the Commission for study. The Commission reviewed U.S. Supreme Court cases and other states' capital murder statutes to examine the issues related to these three bills.

Over half of the states with capital murder statutes make the killing of a judge or a witness punishable by capital murder. There is no constitutional prohibition on making these homicides eligible for the death penalty.

Generally, the "triggerman rule" prohibits an individual, who was involved in a capital murder but was not the actual killer, from being charged with capital murder. Instead, that individual can only be charged with first degree murder, which does not carry the death penalty. The vast majority of states that have capital murder statutes do not have a "triggerman" rule. All of these states follow U.S. Supreme Court guidelines which permit the death penalty for a person who assisted, helped, or encouraged the actual killer, provided the accomplice had same intent or criminal culpability as the actual killer.

The Commission voted to amend Virginia's capital murder statute to make the killing of a judge and the killing of a witness capital crimes. The Commission also voted to amend the "triggerman" rule to allow a principal in the second degree (an accomplice who is present at the scene of the murder) to be charged with capital murder, if the person shares the same intent to kill as the actual killer. Under this recommendation, an accessory before the fact (an accomplice who is not actually present at the scene of the murder) could be charged with capital murder, if he ordered or directed the killing beforehand.