

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0216-01  
Bill No.: SB 169  
Subject: Crimes and Punishment; Criminal Procedure; Prisons and Jails  
Type: Original  
Date: March 17, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
General Revenue	\$1,259,260	\$1,482,343	\$1,444,669
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$1,259,260</b>	<b>\$1,482,343</b>	<b>\$1,444,669</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
None			
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of Attorney General** and the **Office of the Governor** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials from the **Office of State Public Defender (SPD)** assume the average number of death penalty cases in which the State Public Defender provided representation in the last four fiscal years was 30. A Public Defender is able to provide representation in just 3 death penalty cases each fiscal year where the client is charged with murder and the prosecutor is seeking the death penalty. Likewise, a Public Defender can provide representation in 18.75 murder cases where the death penalty is not being sought. The average cost of required experts in a death penalty case is \$20,000 greater than a non-death penalty case. SPD officials assume this proposal would result in a savings of \$1,309,550 in FY 04; \$1,614,363 in FY 05; and \$1,658,449 in FY 06 to the

State Public Defender system.

ASSUMPTION (continued)

Officials from the **Department of Corrections** assume the proposal eliminates the death penalty for all current and future offenders. Their sentences would be commuted to life in prison without parole. This would increase the department's population by approximately five offenders each year.

Currently, the DOC performs an average of five executions per year in accordance with state statute pursuant to sentence of the Courts. Offenders normally serve at least ten years prior to execution due to the appeals process. Current (FY01) operation costs for incarceration are \$44.80 per inmate, per day at a DOC maximum-security institution.

The following charts detail the estimated fiscal impact for the scope of the fiscal note (FYs 2004, 2005, and 2006), the estimated ten-year fiscal impact, and the assumptions used in determining these costs:

Eliminating the Death Penalty Assumptions			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	44.80	365	16,352
Construction (C4 or C5 \$55,000)			0
Emergency Housing	0.00	365	0
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

ASSUMPTION (continued)

	End FY Population	Average Population	Emer Hsng Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2003	0	(current year which will have no costs incurred)				
FY 2004	5			50,260	0	51,768
FY 2005	10	8	0	132,020	0	140,060
FY 2006	15	13	0	213,780	0	233,603
FY 2007	20	18	0	295,540	0	332,633
FY 2008	25	23	0	370,300	0	437,394
FY 2009	30	28	0	459,060	0	548,142
FY 2010	35	33	0	540,820	0	665,140
FY 2011	40	38	0	622,580	0	788,666
FY 2012	45	43	0	704,340	0	919,004
FY 2013	50	48	0	786,100	0	1,056,453
<b>Total Ten-Year Fiscal Impact:</b>						<b>5,172,863</b>

After deducting the total cost of the executions that would have occurred from the total cost for each year, the DOC estimates the cost of the proposal to be \$50,260 in FY 04; \$132,020 in FY 05; and \$213,780 in FY 05.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<b>GENERAL REVENUE FUND</b>			
<u>Savings – State Public Defender (SPD)</u>			
Personal Service (15.25 FTE)	\$503,067	\$618,773	\$634,242
Fringe Benefits	\$203,591	\$250,417	\$256,678
Expense and Equipment	\$102,892	\$127,173	\$130,989
Reduced Expert Testimony	<u>\$500,000</u>	<u>\$618,000</u>	<u>\$636,540</u>
<u>Total Savings – SPD</u>	\$1,309,550	\$1,614,363	\$1,658,449
 <u>Costs – Department of Corrections</u>			
Additional incarcerates	<u>(\$50,260)</u>	<u>(\$132,020)</u>	<u>(\$213,780)</u>
 <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	 <b><u>\$1,259,290</u></b>	 <b><u>\$1,482,343</u></b>	 <b><u>\$1,444,669</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2004 (10 Mo.)	 FY 2005	 FY 2006
	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>

#### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.


#### DESCRIPTION

The proposed legislation would repeal the death penalty make the crime of first degree murder punishable by life imprisonment without parole.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General  
Office of the Governor  
Office of State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
March 17, 2003