

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5449-01  
Bill No.: SB 775  
Subject: Courts; Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: March 10, 2014

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Bill Summary: This proposal abolishes the death penalty and provides that any person sentenced to death before August 28, 2014 must be sentenced to life imprisonment without parole.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the State Public Defender (SPD)** state they devote significant resources to the defense of capital cases at the expense of its trial and appellate divisions. Were the death penalty to be eliminated, the resources currently devoted to those capital cases could be diverted to the trial and appellate divisions.

The resources that could be so diverted if the death penalty were to be eliminated would include:

- 17 more attorney positions (out of 206);
- 8 legal assistant positions (out of 412); and
- 4 social worker / mitigation specialists

There would also be some savings in the cost of experts, travel, and depositions associated with capital cases which are always significantly higher than that of regular cases due to the need to investigate and present the defendant's entire life history as part of the penalty phase mitigation. It's hard to estimate exactly what the difference would be, since some of those litigation expenses would continue to be necessary even if the case is non-capital. However, litigation expenses and attorney's fees paid to contract out conflict cases to private 'panel attorneys' both come out of the same appropriation. Any money no longer needed for litigation expenses due to the elimination of the death penalty would instead be used to contract out additional conflict and case overload cases.

**Oversight** assumes the SPD would not realize an overall savings from this proposal, but instead would reallocate resources within its operations.

Officials from the **Department of Corrections (DOC)** state they have 47 offenders awaiting execution and 28 of them have served over 10 years, the average amount of time to go through the appeal process. A moratorium will likely increase that number over the next ten years.

DOC currently incurs a direct offender cost through incarceration (FY13 average of \$18.014 per offender, per day, or an annual cost of \$6,575 per inmate.) This cost would be offset by the one-time cost of (\$32,146) per each offender who wouldn't be executed.

In summary, supervision by the DOC through extended incarceration would result in additional costs to the department and the exact fiscal impact is unknown per each fiscal year.

ASSUMPTION (continued)

**Oversight** assumes a repeal of the death penalty would not create a direct fiscal impact to the state in the three years reflected in the fiscal note. The one-time expense for an execution (\$32,146 per DOC) equates to over 4 years of incarceration expense ( $\$32,146 / \$6,575 = 4.9$  years).

Officials from the **Office of the State Courts Administrator** and the **Office of the Governor** each assume the proposal would not fiscally impact their respective agencies.

Officials from the Attorney General's Office and the Office of Prosecution Services did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation appears to have no direct fiscal impact.

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

Department of Corrections  
Office of the Governor  
Office of the State Courts Administrator  
Office of the State Public Defender

**Not Responding:**

Office of Prosecution Services  
Attorney General's Office



Mickey Wilson, CPA  
Director  
March 10, 2014

Ross Strobe  
Assistant Director  
March 10, 2014