

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1524-01  
Bill No.: SB 280  
Subject: Children and Minors; Courts; Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: February 11, 2015

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Bill Summary: This proposal modifies the punishment scheme for juvenile offenders of first degree murder and provides a petition process for juvenile offenders currently serving life without parole.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$140,003)	(\$101,974)	\$129,184
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$140,003)</b>	<b>(\$101,974)</b>	<b>\$129,184</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
<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 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Office of the State Public Defender (MSPD)** assume there are 84 juveniles currently serving life without parole. This legislation appears to give them an automatic right to a new sentencing hearing upon request if their case isn't final for purposes of appeal. MSPD estimates 5 of the 84 cases would be eligible under this proposed legislation. MSPD would incur a minimum of \$15,000 times 5 cases for litigation costs. Plus MSPD would have to contract out these 5 cases to private attorneys for the sentencing phase at a cost of approximately \$5,000 per case.

The 84 will be new cases requiring expert witnesses to appear during the sentencing hearing at an estimated cost of \$2,000 per case. Since this is a temporary increase in caseload, MSPD would contract the 84 cases to private counsel. Each case would cost approximately \$3,000 for the sentencing phase only. MSPD has split this one-time cost over the next two fiscal years, as it is uncertain as to when the 84 inmates will file the required petition for a new hearing.

In summary, the MSPD assumes a cost of \$420,000 (84 cases \* \$2,000 for expert witnesses = \$168,000) plus (84 cases \* \$3,000 for private counsel for sentencing phase = \$252,000). The total cost (\$168,000 + \$252,000 = \$420,000) would be split over two years.

Officials at the **Department of Corrections (DOC)** assume prison admissions could be reduced per year as indicated in the following chart, with reduction in the prison population of up to 73 by the tenth year (FY25). Offenders that are released from incarceration due to this legislation will be placed under supervision of the department until their sentence obligations have been met. The FY14 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender. The DOC assumes this legislation could result in long term cost avoidance. Potential cost avoidance as indicated in the following chart will vary according to the population.

ASSUMPTION (continued)

				<b>Fewer # to Prison</b>	<b>Cost per year</b>	<b>Total Savings Prison</b>	<b># to Probation</b>	<b>Cost per year</b>	<b>Total Cost of Probation</b>	<b>Grand Total Prison and Probation</b>
Year 1 (10 months)	23	\$6,105	\$140,415	(23)	\$2,453	(\$56,419)	\$69,997			
Year 2 (includes 2% inflation)	29	\$6,105	\$177,045	(29)	\$2,453	(\$71,137)	\$108,026			
Year 3 (includes 2% inflation)	34	\$6,105	\$207,570	(34)	\$2,453	(\$83,402)	\$129,184			
Year 4 (includes 2% inflation)	40	\$6,105	\$244,200	(40)	\$2,454	(\$98,160)	\$154,979			
Year 5 (includes 2% inflation)	45	\$6,105	\$274,725	(45)	\$2,455	(\$110,475)	\$177,789			
Year 6 (includes 2% inflation)	51	\$6,105	\$311,355	(28)	\$2,456	(\$68,768)	\$267,836			
Year 7 (includes 2% inflation)	56	\$6,105	\$341,880	(27)	\$2,457	(\$66,339)	\$310,304			
Year 8 (includes 2% inflation)	62	\$6,105	\$378,510	(28)	\$2,458	(\$68,824)	\$355,732			
Year 9 (includes 2% inflation)	67	\$6,105	\$409,035	(27)	\$2,459	(\$66,393)	\$401,460			
Year 10 (includes 2% inflation)	73	\$6,105	\$445,665	(28)	\$2,460	(\$68,880)	\$450,293			

This bill modifies the sentencing provisions for offenders who are sentenced for First Degree Murder when the offender was under the age of 18 at the time of the commission of the offense. This bill also adds murder in the first degree to the list of dangerous felonies, which would mean that while a juvenile offender would be eligible for parole, they would need to serve 85% of their sentence.

ASSUMPTION (continued)

1. Offenders Aged 16-17 Years:

565.033.1 (1) A person who at the time of the commission of the offense was sixteen or seventeen years of age shall be sentenced to a term of imprisonment of not less than fourteen years and not to exceed thirty years, or life;

2. Offenders Aged 15 Years and Younger:

565.033.1 (2) A person who at the time of the commission of the offense was younger than sixteen years of age shall be sentenced to a term of imprisonment of not less than twelve years and not to exceed thirty years, or life.

3. Offenders Currently Serving Time for Murder 1st Degree:

At present there are a total of 72 offenders serving time for First Degree Murder at the Department of Corrections with a known offense date, who were under the age of 18 at the time of that offense. Of these, 1 was age 14 at the time of the offense, 10 were age 15, and the remaining 61 were aged 16 or 17. Note that for most offenders, birthdates are not verified, so there may be some discrepancies between what is in our system and the actual ages of the offenders.

There are an additional 21 individuals who were minors at the time of sentencing or the start of their sentences, however, exact ages cannot be determined for these individuals. Further, the average time to the start of a sentence from the date of an offense is 117 days; there are a total of 4 individuals who have no known offense date, but were sentenced within 117 days of their 18th birthday. Finally, there are a total of 7 offenders who committed capital murder as minors who are currently serving time. While this statute does not apply to these offenders, it is possible that they would also be released by the Governor in the interest of fairness. Thus, there are 104 individuals who are currently serving time with DOC who may be eligible to be resentenced.

It is not possible to determine if any of the offenders currently serving life without parole would be resentenced to terms of less than 30 years. Due to the seriousness of this offense, it is assumed that all offenders would be resentenced to a life term, but with the possibility of parole. As per 558.019, a life sentence is calculated as 30 years for the purposes of parole eligibility, making these offenders eligible for parole once they have served a total of 25.5 years. It is assumed that these offenders will be paroled at that point, as this is generally the case for dangerous felons.

ASSUMPTION (continued)

Moving forward, some offenders may be given shorter sentences; however, even a 12 year sentence with a minimum of 85% served is longer than 10 years, and thus will have no impact within the 10 year timeframe. Additionally, the rate of conviction of minors for first degree murder has slowed substantially with an average between one and two convictions per year in recent years.

Of the offenders identified above, 23 would be eligible for parole by the end of FY16. An additional 50 would become eligible during the next 9 fiscal years. If we assume that all offenders receive parole for five years, then the total impact is summarized in the table below.

<b>Fiscal Year</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
<b>DAI Change this Year</b>	-23	-6	-5	-6	-5	-6	-5	-6	-5	-6
<b>Cumulative DAI Change</b>	-23	-29	-34	-40	-45	-51	-56	-62	-67	-73
<b>Parole Change this Year</b>	23	6	5	6	5	6	5	6	5	6
<b>Cumulative Parole Change</b>	23	29	34	40	45	28	27	28	27	28

Therefore, the DOC is expected to have some savings from the passage of this bill, as juvenile offenders experience reduced sentences and become eligible for parole. The Division of Adult Institutions population is expected to decrease by 23 offenders in the first year after passage of this bill and continue decreasing over time. The supervised population would increase by 23 offenders in the first year with passage of this bill, and eventually stabilize at 28 additional supervised offenders.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Office of the State Courts Administrator**, the **Department of Social Services**, the **Department of Mental Health** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>GENERAL REVENUE</b>			
<u>Savings</u> - DOC - cost avoidance resulting from a reduction in prison admissions	\$69,997	\$108,026	\$129,184
<u>Cost</u> - MSPD			
One Time Litigation Costs	(\$84,000)	(\$84,000)	\$0
One Time Contract Counsel Costs	<u>(\$126,000)</u>	<u>(\$126,000)</u>	<u>\$0</u>
Total Costs - MSPD	<u>(\$210,000)</u>	<u>(\$210,000)</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$140,003)</u></b>	<b><u>(\$101,974)</u></b>	<b><u>\$129,184</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<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.

FISCAL DESCRIPTION

This act modifies provisions relating to sentencing for first degree murder.

PUNISHMENT FOR FIRST DEGREE MURDER - 556.061, 565.020, & 565.033:

This act adds first degree murder to the definition of "dangerous felony". Under current law, the punishment for first degree murder is either death or life without parole. This act modifies the punishment for juvenile offenders of first degree murder to allow a sentence of at least 14 years and no more than 30 years for a person who was 16 or 17 years old at the time of the offense and a sentence of at least 12 years and no more than 30 years for a person who was under the age of 16.

FISCAL DESCRIPTION (continued)

This act provides that the jury, or judge in a jury-waived trial, must consider certain specified factors relating to the defendant or the murder when assessing punishment for a person who was under 18 years old at the time of the first degree murder. Also, provided is a list of factors the court may consider when resentencing a defendant who was convicted and sentenced prior to the effective date of this act.

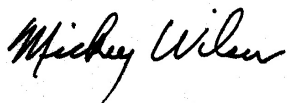
PETITION FOR REVIEW OF SENTENCES - 558.047:

This act provides a process for juveniles who have been sentenced for first degree murder to petition for a review of their sentences. This act states that the provisions allowing for such review have retroactive application. This act provides the requirements for the petition to be accepted by a sentencing court and allows the prosecutor 30 days to reply. Unless the petition has been returned to the person for failing to provide all the required information, the court must hold a hearing to determine if the person is currently serving a mandatory sentence of life without parole for an offense committed while the person was under the age of 18. If the court determines the person is eligible for resentencing, the court must set the matter for resentencing the defendant in the same manner as if the defendant had never been sentenced. Family members of victims have the right to participate in the hearing. The provisions of this act contain an emergency clause.

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 the Attorney General  
Office of the State Courts Administrator  
Department of Mental Health  
Office of Prosecution Services  
Department of Social Services  
Office of the State Public Defender  
Department of Corrections





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