

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4543-01
BILL NO.: SB 1047
SUBJECT: Criminal Procedure: Mental Health
TYPE: Original
DATE: February 29, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses
 This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Public Safety - Missouri State Highway Patrol, Office of the State Public Defender, and the Office of State Courts Administrator** assume this proposal would have no fiscal impact to their agencies.

Officials of the **Department of Mental Health (DMH)** assume this proposal would create no additional duties for their department, so no fiscal impact is anticipated. The DMH currently provides psychological evaluations on all defendants in murder trials.

Officials from the **Department of Corrections (DOC)** stated that any fiscal impact which resulted due to passage of this proposal would occur after the 10.6 years that death-row inmates currently serve on average before execution, and is, therefore beyond the scope of this fiscal note.

DOC staff stated that 12% of the current population of death-row inmates have an IQ of 75 or lower, but not all inmates convicted of first-degree murder receive the death penalty. It is unknown how many offenders the court would determine to be mentally retarded and that may have received the death penalty, but DOC assumes it would be a small percentage.

In response to a similar proposal from previous legislative sessions, DOC officials assumed that if a 20-year-old individual had to be incarcerated for the remainder of his life and lived to be 70 years of age, DOC would be required to incarcerate this individual for an additional forty years after the average appeals process. Normally, the individual is executed after the appeals have been exhausted and the cost to DOC is ended. Under this proposal, DOC would be required to incarcerate the individual for his lifetime, barring a governor's pardon. At a cost of approximately \$10,000 per year (not accounting for inflation) to house, feed and clothe an individual, the long-range cost could range from \$0 to \$400,000 per inmate.

Officials of the **Office of Prosecution Services** assume this proposal would not have a significant impact to prosecutors.

Oversight assumes that any cost increases to local government units and prosecutors due to the protraction of cases would likely be offset by cases involving defendants already adjudged to be mentally retarded before the case is tried, thereby eliminating the cost of capital punishment jury consideration at the end of those trials.

In response to similar legislation from the previous legislative session, officials from the **Office of Attorney General** assumed the proposal would have no impact on their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	0	0	0

GENERAL REVENUE FUND

Long Range Cost - Costs of incarceration of one additional person could range from \$0 to \$400,000, depending on how long the individual lives. Actual fiscal impact would not be realized for approximately ten years from the time of conviction.

Long Range Savings - In the absence of a death sentence, some appeals processes would be less protracted, and especially in cases where mental illness issues are raised and expert medical evidence is required, the appeals process is often as costly as long-term incarceration. Because there is no way to determine exactly how many or how extensive each case involving mental retardation may become, total cost savings are unknown.

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	0	0	0

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal would prohibit the use of the death penalty for persons who were mentally retarded. The court shall hold a hearing upon a motion filed that the defendant is mentally retarded. The court shall make a determination regarding such motion no later than ten days prior to trial.

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

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SOURCES OF INFORMATION

Department of Corrections
Department of Public Safety - Missouri State Highway Patrol
Department of Mental Health
Office of Prosecution Services
Office of Attorney General
Office of State Courts Administrator
Office of State Public Defender

NOT RESPONDING - Office of the Attorney General



Jeanne Jarrett, CPA
Director
February 29, 2000