


Colorado Legislative Council Staff Fiscal Note
STATE and LOCAL
FISCAL IMPACT

Drafting Number: LLS 09-0282	Date: February 19, 2009
Prime Sponsor(s): Rep. Weissmann Sen. Carroll M.	Bill Status: House Judiciary
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TITLE: CONCERNING CAPITAL CRIMES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
State Expenditures		
General Fund	(\$369,041)	(\$369,041)
FTE Position Change		
Effective Date: Upon the signature of the Governor or upon the bill becoming law without his signature		
Appropriation Summary for FY 2009-2010: See State Appropriations section		
Local Government Impact: See Local Government section		

Summary of Legislation

This bill eliminates the death penalty. It declares the intent of the General Assembly to use any savings resulting from the abolition of the death penalty to increase funding for the Cold Case Homicide Team of the Colorado Bureau of Investigation, created in 2007.

State Expenditures

This bill is expected to result in a total General Fund expenditure reduction of \$369,041 for FY 2009-10 and FY 2010-11 in the Judicial Branch agencies of the Alternate Defense Counsel and the State Public Defender.

Judicial Branch, Alternate Defense Counsel. This bill is expected to create a cost savings for the Office of the Alternate Defense Counsel (ADC) of \$203,805 in FY 2009-10 and FY 2010-11. The ADC contracts with attorneys throughout the state to provide representation for indigent defendants in cases where the public defender has a conflict of interest. The fiscal note assumes, given historical data, that the ADC would be assigned 2 death penalty cases each year without the bill that would shift to first degree murder cases under the bill. Table 1 compares the costs to the ADC for death penalty cases versus those of non-death penalty cases.

Table 1. Annual Cost Comparison Between Death Penalty and Non-Death Penalty Cases for the Alternate Defense Counsel			
Cost Components	Death Penalty	Non-Death Penalty	Total Difference
Attorney Hours	\$84,489	\$9,832	\$74,657
Paralegal Hours	\$1,453	\$432	\$1,021
Investigator Hours	\$15,886	\$1,764	\$14,122
Attorney Travel	\$2,970	\$608	\$2,362
Administrative Overhead	\$2,127	\$257	\$1,870
Per Case Subtotal	\$106,925	\$12,893	\$94,032
Mandated Costs*	\$115,875	\$13,972	\$101,902
TOTAL (2 Cases)	\$231,749	\$27,944	\$203,805

* Includes costs related to witnesses, experts, transcripts, discovery, duplication of files, and witness/expert travel

Judicial Branch, State Public Defender. This bill is expected to result in decreased expenditures for the Office of the State Public Defender (OSPD) of \$165,236 in FY 2009-10 and FY 2010-11. The OSPD incurs costs for expert consultations and testimony, as well as travel expenses for witnesses, investigators, and experts, for an average of 4 death penalty cases each year. Under the bill, the 4 death penalty cases would become non-death penalty class 1 felony cases. Table 2 compares the costs for each type of case and illustrates the savings to the OSPD as a result of this bill.

Table 2. Annual Cost Comparison Between Death Penalty and Non-Death Penalty Cases for the State Public Defender			
Cost Components	Death Penalty	Non-Death Penalty	Total Difference
Expert Testimony	\$34,518	\$1,617	\$32,901
Travel Expenses	\$9,729	\$1,321	\$8,408
Per Case Subtotal	\$44,247	\$2,938	\$41,309
TOTAL (4 Cases)	\$176,988	\$11,752	\$165,236

Additional costs savings could potentially be realized by the OSPD in the form of in-state travel, general supplies and copies, transcripts, and discovery, however these costs are not tracked according to the type of case. Death penalty cases require more resources than other cases, but these other costs cannot be quantified at this time.

Department of Public Safety. This bill declares the intent of the General Assembly to use the anticipated General Fund savings from the abolition of the death penalty to increase funding to the Cold Case Homicide Team in the Colorado Bureau of Investigation (CBI). The fiscal note assumes this savings will be \$369,041 in FY 2009-10 and FY 2010-11. The bill does not require anything of the Department of Public Safety. The General Assembly has the discretion to appropriate funds for the Cold Case Homicide Team.

Departmental Differences

Department of Public Safety. In addition to the expenditures identified above, the Department of Public Safety estimates a need for an additional \$833,376 and 8.0 FTE in FY 2009-10 and \$753,378 and 8.0 FTE in FY 2010-11. The needs occur in the CBI's Cold Case Homicide Team and include personal services and operating costs for:

- 1.0 FTE Criminal Investigator III to act as a team director;
- 4.0 FTE Criminal Investigator II to work in two teams across the state conducting complex or violent crime investigations;
- 1.0 FTE General Professional III to act as the team's intelligence analyst and criminal profiler; and
- 2.0 FTE Laboratory Criminal Investigator II to analyze crime scene evidence and do crime scene reconstruction.

The bill declares the intent of the General Assembly to use the savings generated by the repeal of the death penalty to increase funding to the Cold Case Homicide Team, however there is no statutory change to mandate this. The fiscal note assumes that, in the event such savings are realized, the needs of the team will be addressed through the annual budget process. As such, the fiscal note does not indicate the need for new funding for the Department of Public Safety

Local Government Impact

Local governments are responsible for funding most of the costs associated with district attorney's offices. Assuming the homicide rate remains constant with or without the death penalty, there will be fiscal savings to counties under this bill. If the homicide rate increases dramatically as a result of abolishing the death penalty, counties will see a corresponding increase in costs.

State Appropriations

The Judicial Department, Office of the Alternate Defense Counsel requires a General Fund appropriation reduction for FY 2009-10 of \$203,805. The Judicial Department, Office of the State Public Defender requires a General Fund appropriations reduction for FY 2009-10 of \$165,236.

Departments Contacted

Corrections District Attorneys Judicial Law Public Safety