

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4627-01  
Bill No.: HB 1433  
Subject: Criminal Procedure; Courts; Crimes and Punishment  
Type: Original  
Date: December 18, 2017

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Bill Summary: This proposal abolishes the death penalty in Missouri.

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<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>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<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>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<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>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<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 other areas.

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

- 17 more attorney positions;
- 12 support staff positions.

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. The SPD has requested an additional \$858,842 for FY 2019 for contracting out all conflict 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 the death penalty was reinstated in Missouri in 1977 with the first execution occurring in 1989. The average time for executing someone with a death sentence is 10+ years, which is beyond the scope of this fiscal analysis. There are currently 25 offenders awaiting a death sentence. The average age of these offenders is 48 years old. Twelve of the offenders have spent more than ten years in prison and their average age is 50. The average age of natural death in prison is 55 years old, therefore this group can expect to spend an additional five years in prison. The average age of the remaining is 44 years old and they can expect to spend an additional nine years in prison. Finally, the youngest death row offender is 32 and the oldest is 62. New criminal penalties are not addressed in this bill.

ASSUMPTION (continued)

DOC currently incurs a direct offender cost through incarceration (the average cost of incarceration is an annual cost of roughly \$6,085 per offender). This cost would be offset by the one-time cost per each offender who wouldn't be executed.

The DOC assumes no fiscal impact from the proposal.

**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 from 2014 response) equates to over 5 years of incarceration expense ( $\$32,146 / \$6,085 = 5.3$  years).

Officials from the **Office of Prosecution Services** assume the proposal would not fiscally impact their agency.

Officials from the **Office of the State Courts Administrator** state there may be some impact but there is no way to quantify that currently. Since there is no death penalty, there may be a reduction in case activity. Any significant changes will be reflected in future budget request.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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

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

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Director  
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Assistant Director  
December 18, 2017