

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4339-02
Bill No.: HCS for HB Nos. 1756 & 1925
Subject: Crimes and Punishment; Mental Health; Civil Procedure; Courts
Type: Original
Date: April 27, 2020

Bill Summary: This proposal modifies provisions relating to murder in the first degree.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Total Estimated Net Effect on General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on FTE	0	0	0

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§565.020 & 565.028 - Provisions relating to Murder in the First Degree

Officials at the **Department of Corrections (DOC)** assume this bill seeks to exclude those with serious mental illnesses from receiving a sentence of death.

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 plus years, which is beyond the scope of fiscal analysis. On the last day of FY 2019, there were 23 offenders awaiting execution. The average age of these offenders was 49 years old. The average age of natural death in prison is 55 years old. Therefore, this group can expect to spend, on average, an additional six years in prison.

Considering serious mental illness is newly defined in the new subsection 565.028, we will have no data of offender diagnosis. There have only been 2 offenders sentenced to death since 2015. The average time for executing someone with a death sentence is 10 plus years. The resentence from death to a life sentence or other long-term sentence in prison will not have an impact on the department in the scope of fiscal analysis.

§565.030 - Trial Procedures for Murder in the First Degree

In response to a previous version, officials at the **Office of the State Public Defender (SPD)** assumed this proposed legislation could have a positive fiscal impact on the SPD. If the jury cannot decide upon punishment, the judge cannot impose a punishment of death. Depending on the number of times this could occur, the SPD would not have a capital appeal, a capital Post Conviction Relief (PCR) or a capital PCR appeal on the limited number of cases where a judge decides the sentence of death in a capital case. Therefore, a cost savings could be possible.

Oversight will assume that any savings realized by the SPD could potentially be shifted to other cases. Therefore, Oversight will range the fiscal impact from \$0 to an unknown amount.

Officials at the **Department of Corrections** assume no fiscal impact from this section of the proposal.

Bill as a Whole

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

Oversight notes that the Department of Corrections, the Office of the State Courts Administrator, the Office of the Attorney General, the Department of Health and Senior Services, the Department of Mental Health, the Department of Social Services, the Office of the State Public Defender and the Office of Prosecution Services have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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GENERAL REVENUE FUND

<u>Savings</u> - SPD - potential savings if in certain cases, judges are not allowed to decide the sentence of death (§565.030)	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$ or Unknown</u>
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ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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

§565.030 - Trial Procedures for Murder in the First Degree

Currently, if a jury cannot decide or agree upon a defendant's punishment upon conviction of first degree murder, the jury is instructed that the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the Governor or death. This bill removes death as an option for the court to declare as punishment in cases where the jury cannot decide or agree upon the punishment.

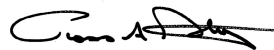
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

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



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April 27, 2020



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