



## Fiscal Estimate Narratives

CTS 10/13/2003

LRB Number	03-0644/1	Introduction Number	SB-2	Estimate Type	Original
<b>Subject</b>					
Death penalty					

### Assumptions Used in Arriving at Fiscal Estimate

This bill creates a penalty of death or life imprisonment for certain first-degree homicides, defined as Class AA felonies under the bill. The death penalty would only be applicable if the victim of the first-degree homicide was under age 16 or was an unborn child. In addition, the person convicted must be at least age 16 at the time of the offense, must be convicted for directly committing the homicide and must not be found mentally retarded as defined by the bill before a court could consider sentencing a person to death.

It is difficult to predict how many defendants will be charged with, or ultimately convicted of, Class AA felonies in any year.

In 2002, there were 159 defendants charged with violating s. 940.01, first-degree intentional homicide. That number varies from year to year. The number charged with Class AA felonies would be a portion of those cases. Without examining the details of each case individually, it is impossible to know how many of those defendants might be charged with Class AA felonies.

There is data available on how many convictions there have been in recent years for violations of s. 940.01, first-degree intentional homicide. During the years 2000 – 2002, there were 244 convictions. In 2000, there were 87 convictions; 2001, 62; and 2002, 95. Because a case could involve the conviction for more than one homicide, there were fewer cases in which these convictions occurred. There were a total of 206 cases involved during 2000 – 2002. In 2000, there were 71 cases; 2001, 52; and 2002, 83.

The majority of convictions for first-degree intentional homicide were obtained after jury trials. Of the 244 convictions obtained in 2000 – 2002, there were 128 convictions obtained after a jury trial, 105 convictions by pleas of guilty or no contest, 3 convictions after a court trial and 8 that were resolved after a finding of not guilty by reason of mental disease or defect. Again, without examining the details of each case individually, it is impossible to know how many of those convictions would be Class AA felonies that would require further proceedings under the terms of this bill.

This bill imposes new procedural requirements upon the court system, including: (1) mandatory jury hearings to advise the court on whether to impose life imprisonment or death; (2) hearings on motions that raise the issue of mental retardation as a bar to imposition of the death penalty, and (3) automatic review by the Supreme Court.

(1) Mandatory jury hearings. Unless the defendant waives his right to a jury, the court conducts a separate proceeding in which a jury renders an advisory sentence of life imprisonment or of death after a person has been convicted of a Class AA felony. The court conducts the sentencing hearing before the trial jury; if that is not possible or if a trial jury was waived, a new jury must be empanelled. Juror costs, including per diem payments and any required food and lodging costs, are borne by the counties.

(2) Hearings on motions to determine whether the defendant has mental retardation. If a defendant has moved to bar a sentence of death because of mental retardation, the court must hold a hearing after the jury has advised the court regarding a sentence of life imprisonment or of death. The court is required to appoint two experts in the field of mental illness to evaluate the defendant and report to the court. If the court finds, by clear and convincing evidence, that the defendant has mental retardation, then the court may not sentence the defendant to death.

Additional court time will be required to conduct these hearings. It is assumed that any additional expenses for expert witnesses will be borne by the counties.

(3) Automatic review by the Supreme Court. If a death sentence has been imposed, the bill requires an

automatic review of the case, both of the judgment of conviction and of the sentence, by the Supreme Court. The bill sets deadlines for the Supreme Court's consideration of the case and mandates that the case will have priority over the Court's other work. This requirement will add to the Supreme Court's workload.

Additional court proceedings require judge, court reporter, court staff and juror time. These costs are borne by both the state and the county. Experience from states that have the death penalty indicates that cases involving the death penalty do not resolve as quickly, require more investigative and attorney time, require more expert witness testimony and have trials that last 3-5 times longer than non-capital murder cases. In addition, other states find courts require more time and more potential jurors to seat a qualified jury because jurors must be asked their opinions about the death penalty. Juror costs are borne by the counties.

### **Long-Range Fiscal Implications**

## Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

LRB Number <b>03-0644/1</b>		Introduction Number <b>SB-2</b>	
<b>Subject</b>			
Death penalty			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes		\$	
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
<b>TOTAL State Costs by Category</b>		<b>\$</b>	<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)</b>			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
<b>TOTAL State Revenues</b>		<b>\$</b>	<b>\$</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>			
		State	Local
NET CHANGE IN COSTS		\$+Indeterminate	\$+Indeterminate
NET CHANGE IN REVENUE		\$	\$
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
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