



## Fiscal Estimate Narratives

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<b>Subject</b>					
Death penalty					

### Assumptions Used in Arriving at Fiscal Estimate

This legislation would establish the death penalty in Wisconsin as an alternative to life imprisonment for certain first degree homicides. The costs imposed by such an initiative on both local prosecutors and the Department of Justice (DOJ) are estimated to be significant, yet indeterminate. Given the discretionary authority afforded local prosecutors, the inability to predict crime rates, the unique factors related to individual offenses, and the vast and complex appeals process afforded criminal defendants in such cases, a total annual assessment of costs imposed at either the state or local level is not possible.

Several case studies present persuasive evidence that imposing the death penalty will cost substantially more than life imprisonment prosecutions. The findings of some of these studies follow:

#### North Carolina

In a study of North Carolina's death penalty prosecutions, one study estimated that each execution costs an extra \$2.16 million over cases with a sentence of life imprisonment. It also estimated that each clemency proceeding alone imposed more than 600 hours for defense and state attorneys as well as 60 hours for executive staff.

Philip J. Cook & Donna B. Slawson, *The Costs of Prosecuting Murder Cases in North Carolina*, 1993.

#### New York

A 1982 study related to New York's reintroduction of the death penalty estimated that the cost of a capital trial would be more than double the cost of a life term in prison. The New York Department of Corrections estimated that it would cost \$2 million per execution.

New York State Defenders Association, "Capital Losses: The Price of the Death Penalty in New York State." (1982).

#### Maryland

A 1989 study by the U.S. Government Accounting Office case costs "approximately 42% more than a case resulting in a non-death sentence." It also estimated the costs at \$2.3 million dollars to move a death penalty case all the way through the system.

U.S. Government Accounting Office, "Limited Data Available in Costs of Death Sentences." (1989), p. 50.

#### Florida

In 2000, one study estimated that Florida spent \$51 million per year in additional costs to enforce the death penalty.

S.V. Date, "The High Price of Killing Killers," *Palm Beach Post*, January 4, 2000, at 1a.

#### Texas

The average cost of a capital trial in Texas is \$2.3 million.

*Dallas Morning News*, March 8, 1992.

#### Indiana

According to a study by the Indiana Legislative Services Agency, if all offenders who received the death penalty between 1979 and 2000 had instead received the sentence of life without parole, the savings to Indiana would have been about \$37.1 million.

Kelly Lucas, "Death Penalty is Fair and Proportionate," *The Indiana Lawyer*, November 21, 2001.

Currently, the Department of Justice (DOJ) provides appellate representation for local district attorneys. These costs could not be absorbed by the Department or its existing staff. Moreover, the protracted nature of death penalty appeals would likely only compound over time. Additionally, given the extensive appeals likely involved in such cases, it is likely that the Department and its attorneys would necessarily need to be involved at the trial

level, ever more increasing the burden on DOJ staff and resources. Finally, the Department anticipates an increased demand of its crime lab and forensic staff to prepare, review and process DNA and other evidence involved in death penalty cases.

While there is no reliable data or predictor that would allow for a uniform cost estimate of all death penalty cases, the Department has no quantifiable data to distinguish Wisconsin from the conclusions above. In addition, the costs imposed on local law enforcement and court system personnel are also anticipated to be substantial, but indeterminable.

According to the Office of Justice Assistance, Bureau of Crime Statistics, there were 155 documented homicides in the State of Wisconsin in 2002 (the most recent data available). There is no information available to determine how many of these cases would have resulted in death penalty prosecutions.

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