

Fiscal Estimate Narratives

DA 4/4/2007

LRB Number	07-1526/1	Introduction Number	SB-115	Estimate Type	Original
Description Providing a penalty of death or life imprisonment for a first-degree intentional homicide that is vicious					

Assumptions Used in Arriving at Fiscal Estimate

There is no data to estimate the number of cases where District Attorneys' offices would seek the death penalty if this bill were to be enacted. In order to allow a DA to seek the death penalty, the perpetrator must have committed first-degree intentional homicide that was vicious. Potentially, this would limit the number of first-degree homicides that could be considered for the death penalty.

Though we currently have no experience with such cases, it is possible to anticipate some of the ramifications of what may occur as a result. In cases where the death penalty was sought, there would be a significant impact on DA resources. In some prosecutorial units, a DA may establish a procedure in which several prosecutors independently review the file and state whether or not they recommend the death penalty. While this may provide valuable input and perspectives leading toward a prosecution decision, it would increase the amount of time spent on such cases by prosecutors (and take away time from their other cases). This would adversely affect the workload.

Prosecutors are committed to every case they work on; however, they would need to be even more invested in a death penalty case. It is not unrealistic to expect that prosecutors would want to be involved in each phase of the investigation; whereas, currently they may rely on police officers and detectives for information pertinent to a case. The pressure of a death penalty prosecution would greatly exceed any current prosecution.

Another factor that would create an additional strain on DA resources is the bill's requirement that the court must hold a sentencing hearing separate from the trial, and that the defendant has a right to a jury at the sentencing hearing. It is probable that a sentencing trial could last longer than the guilt-phase trial, thereby more than doubling the time a prosecutor spends on such a case. In addition, it would not be unexpected that any ruling would be appealed, leading to more time spent on the case by prosecutors.

Long-Range Fiscal Implications

Similar to what was stated in the "Assumptions" section above, it is difficult to estimate what long-term fiscal implications the death penalty may have on DA offices. It would not be unreasonable, however, to anticipate that if the death penalty was sought in a number of cases, there would be a severe strain on prosecutorial resources. With at least one prosecutor completely immersed in such a trial, their remaining caseload would fall on others in the office, who already are handling heavy workloads.