

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 7393**

**BILL NUMBER: HB 1204**

**DATE PREPARED:** Dec 31, 2000

**BILL AMENDED:**

**SUBJECT:** Murder Sentences for Mentally Ill Defendants.

**FISCAL ANALYST:** Mark Goodpaster

**PHONE NUMBER:** 232-9852

**FUNDS AFFECTED:  GENERAL  
 DEDICATED  
 FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has two provisions:

(A) It prohibits a court from sentencing a defendant to death or life imprisonment without parole for committing murder if the defendant is found guilty but mentally ill at the time the defendant committed the murder or enters a plea to that effect that is accepted by the court.

(B) It prohibits a court from sentencing a defendant to life imprisonment without parole if the person is mentally retarded.

**Effective Date:** July 1, 2001.

**Explanation of State Expenditures:** With either provision, this bill could limit the sentence for certain offenders if they are found mentally ill or retarded. (Under current law, the sentencing court may consider that the defendant was under the influence of extreme mental or emotional disturbance when the murder was committed as a mitigating circumstance against imposing either the death penalty or a sentence of life imprisonment without parole.) These provisions could reduce the amount of time that the Office of the Attorney General and the State Public Defender's Office spend on murder cases that are appealed.

Both the Office of the Attorney General and the State Public Defender's Office are involved in portions of criminal appeals at the state appellate and supreme court level. The Office of Attorney General, representing the state of Indiana as prosecutor, is involved in criminal cases in appeals made by the criminal defendant to the State Supreme Court and in federal court. The State Public Defender's Office represents the criminal defendant in all post-conviction proceedings in state court.

Because offenders who are determined to be mentally ill or retarded could no longer be sentenced to life without parole, the amount of time that an offender could be sentenced to serve may also be reduced. Under current statute, the fixed term for murder is 55 years, with a maximum ten years added for aggravating circumstances and ten years subtracted for mitigating circumstances. The average expenditure to house an

adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** This bill may reduce the costs of prosecution and defense in murder cases if the death penalty or life imprisonment without parole may no longer be sought because the defendant is found to be either mentally ill or retarded.

Research indicates that the trial and appeals costs for death penalty cases can be two to three times more than the cost of incarceration. (Death penalty case costs are further inflated due to additional police investigation and court time, prosecution resources expended, and the costs of a lengthy jury trial with a sequestered jury.) These expenses are paid from the county general fund. Counties can be reimbursed for half of their expenditures for indigent defense under the Public Defense Fund.

**Explanation of Local Revenues:**

**State Agencies Affected:** Office of the Attorney General, State Public Defender, State Supreme Court.

**Local Agencies Affected:** Prosecuting Attorney, Public Defender, Trial Courts.

**Information Sources:** IC 35-50-2-3.