

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

301 State House
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FISCAL IMPACT STATEMENT

LS 6491

BILL NUMBER: HB 1598

DATE PREPARED: Dec 12, 2000

BILL AMENDED:

SUBJECT: Elimination of Death Penalty.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill abolishes the death penalty. It specifies that if a person was sentenced to death and is awaiting execution of the death sentence, the person's death sentence is commuted to a sentence of life imprisonment without parole. It also makes conforming amendments.

Effective Date: Upon passage.

Explanation of State Expenditures: This bill would affect three populations of offenders and criminal defendants and the state and local agencies and courts that are involved in these types of cases. These three populations include: offenders who are currently on death row; criminal defendants who are currently on trial in which capital punishment is being considered; and criminal defendants in the future who commit a crime that might be charged with the death penalty.

For offenders who currently are on death row, commuting their sentences to life imprisonment without parole would result in some expenditure savings for these agencies and branches of government: (1) the Office of Attorney General, which represents the state of Indiana in these cases during post conviction appeals at both the state and federal level; (2) the State Public Defender's Office, which represents criminal defendants in post conviction appeals at the state level; and (3) the Indiana Supreme Court, which hears appeals of these cases and ultimately sets the date of execution. If the death sentences of these offenders are commuted to life without parole, these agencies could avoid some of the costs that are associated with last minute hearings, appeals and decisions related to executions. Commuting the sentences of these offenders will lengthen their time of incarceration. These savings and offsetting costs would also apply in the case of offenders who are sentenced to life in prison without parole in future years in lieu of the death penalty.

If the death penalty is eliminated as a sentencing option, funding from the Public Defense Fund will be used to reimburse attorneys representing criminal defendants in cases involving either life imprisonment without parole or other types of noncapital cases. Under current law, counties are reimbursed for 50% of their

indigent defense costs in death penalty cases and for 40% of their indigent defense costs in all other felony cases. Consequently, counties would now be reimbursed at the rate of 40% for all criminal defense cases. In addition, the reimbursement for criminal defense attorneys in capital and noncapital cases is different. Attorneys in death penalty cases will be eligible for reimbursement at a rate of \$90 per hour beginning January 1, 2001 while attorneys representing indigent defendants in noncapital cases are reimbursed at a rate of \$60 per hour.

Public Defense Fund expenditures for FY 1996 through FY 2000 for reimbursing counties for 50% of the costs of capital cases are provided in the following table.

FY	1996	1997	1998	1999	2000
Expenditure	\$505,165	\$371,047	\$799,450	\$526,512	\$578,209

State reimbursements for 40% of the costs of all other criminal cases to counties are shown below.

FY	1996	1997	1998	1999	2000
Expenditure	\$668,747	\$628,841	\$1,031,467	\$2,188,699	\$3,302,471

The Public Defense Fund receives \$2.4 M annually in transfers from the General Fund generated from court fees.

Currently, 43 offenders are on death row in Indiana. Of these offenders, 23 inmates have appeals filed in federal courts.

Explanation of State Revenues:

Explanation of Local Expenditures: Under this bill, counties would avoid some of the costs allocated to providing indigent defense services in capital cases. Death penalty case costs are inflated by additional police investigation and court time, prosecution resources, or the costs of lengthy jury trial with a sequestered jury.

Explanation of Local Revenues:

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

Local Agencies Affected: Trial Courts, Prosecuting Attorneys.

Information Sources: Susan Carpenter, State Public Defender; Michael Hurst, Office of the Attorney General; Department of Correction; <http://www.clarkprosecutor.org/html/death/rownew.htm>