

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 1739 HB	<b>Title:</b> Death penalty, eliminating	<b>Agency:</b> 055-Admin Office of the Courts
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
Counties					
Cities					
<b>Total \$</b>					

### Estimated Expenditures from:

**Non-zero but indeterminate cost. Please see discussion.**

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

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## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

This bill would eliminate the death penalty in favor of life incarceration.

Section 1 would amend RCW 10.95.030 to:

- require that a life sentence without possibility of parole must include a restitution order;
- require that an offender sentenced to life without possibility of parole be required to work throughout the duration of his/her sentence to satisfy the restitution order;
- require the death penalty be removed as a possible sentence for aggravated first degree murder .

Section 2 would repeal a number of sections of RCW 10.95 relating to court proceedings concerning a death sentence .

### II. B - Cash Receipts Impact

None

### II. C - Expenditures

This bill would require the death penalty be removed as a possible sentence for aggravated first degree murder . Eliminating the death penalty would result in cost savings for the superior courts for no longer trying death penalty cases and the supreme court for no longer hearing death penalty case reviews and appeals .

According to a January 2015 Seattle University report on the "Analysis of the Economic Costs of Seeking the Death Penalty in Washington State", the average court, police/sheriff and miscellaneous costs associated with an aggravated first-degree murder case where the death penalty was sought was \$528,779 compared to \$65,075 when the death penalty was not sought .

However, because these death penalty cases are before the supreme and superior courts over a period of years, each features different details and aggravating factors, and the cases are before different justices and judges there is not sufficient data to estimate the cost savings .

The following are examples of the types of costs that would be saved :

- Compared to other felony cases in superior court, more time is spent in death penalty cases on complex pre-trial motions, legal challenges and jury selection. A death penalty case lasts between 20 to 30 days longer than a typical felony case .
- There would be savings in jury selection. Jury selection for death penalty trials is more complex with many more jurors summoned than in a typical jury trial. The process of selecting a jury is much more involved, with jurors having to provide additional written material and the court and attorneys reviewing these juror questionnaires . Jury selection can take as long as 30 days for a death sentence trial compared to other cases where jury selection takes a day or two . Should a jury find a defendant guilty of aggravated murder in the first degree then the same jury would convene for a "penalty phase." In the penalty phase the jury decides whether the sentence should be death or life imprisonment without the possibility of parole . This phase can last from a few days to longer than a week .
- The supreme court would achieve savings by not hearing appeals of death penalty sentences . Statute provides for automatic review and appeal to the supreme court of all death penalty sentences . It requires the supreme court to review specific issues concerning whether sufficient evidence existed to justify the jury's determination of insufficient mitigating circumstances; whether the sentence was a product of passion or prejudice; whether the sentence is excessive or disproportionate to the penalty imposed in similar cases considering both the crime and the defendant; and whether the defendant had an intellectual disability .
- In the supreme court, additional procedures are required by supreme court rule . Two attorneys must be appointed to represent the defendant with one of these attorneys from the death penalty qualified list; every hearing must be transcribed and a proportionality analysis must be made; and the time for argument in death penalty cases is three times longer than in other cases .
- If there is a supreme court decision that is adverse to the defendant, then within one year from that decision a Personal Restraint Petition (PRP) may be filed by the defendant in the supreme court that can raise issues not previously considered at the appellate or trial proceedings. These PRP proceedings also require that two attorneys be appointed, with at least one being an attorney qualified from the death penalty qualified list, the briefing to the court is increased, experts and investigators may be appointed and the hearing must be

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transcribed.

- The amount of additional time that a justice and staff assigned a death penalty case spends is considerably more than with other case assignments. It is estimated that currently the supreme court clerk spends 10 to 15% of his time on capital cases while another member of the clerk's office staff spends 20% of their time.

If this bill passed, judges and staff would redirect their time not spent on death penalty cases to other cases before the courts and to reducing caseload backlogs.

### **Part III: Expenditure Detail**

### **Part IV: Capital Budget Impact**