



**Colorado  
Legislative  
Council  
Staff**

**SB17-095**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0066  
**Prime Sponsor(s):** Sen. Guzman

**Date:** January 27, 2017  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** REPEAL THE DEATH PENALTY

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
<b>State Revenue</b>		
<b>State Expenditures</b>		
General Fund	Potential decrease.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing decrease in state expenditures.		

**Summary of Legislation**

This bill repeals the death penalty in Colorado for offenses committed on or after July 1, 2017.

**Background**

Under current law, the state may seek the death penalty as a sentence for class 1 felonies. There have been 10 death penalty cases filed in Colorado since 2002.

**State Expenditures**

Beginning in FY 2017-18, this bill may decrease state General Fund expenditures in the Judicial Department, as discussed below.

**Trial and appellate courts.** Death penalty cases require higher level attorney, clerical, judicial, and investigative personnel, more courtroom security, more jurors, more pre-trial motions and hearings, and longer trials. Because many of the factors that affect death penalty trial costs are not uniform across judicial districts, and there are few data available from which to make an estimate, the fiscal note has not estimated the decreased trial costs to the Judicial Department. To the extent that any decrease in workload and costs requires an adjustment in appropriations, the fiscal note assumes that this will be addressed in the annual budget process.

**Office of the State Public Defender (OSPD).** State-appointed defense counsel litigate the vast majority of death penalty cases. Costs to OSPD will decrease by an average estimated \$365,163 and 2.7 FTE per year, assuming an average of about 10 death penalty cases every 13 years. These costs represent the amount above what OSPD would have incurred to litigate a case where the prosecution seeks a sentence of life without parole. Because the bill applies to offenses committed on or after July 1, 2017, costs will likely not decrease for OSPD until at least FY 2019-20. If a decrease in future costs to OSPD requires an adjustment in appropriations, the fiscal note assumes this will be addressed in the annual budget process.

**Office of the Alternate Defense Counsel (OADC).** In the event that a defendant is deemed indigent and the OSPD has a conflict of interest, OADC must provide representation. For informational purposes, costs to OADC to represent a defendant in a death penalty case average \$381,474 per case. These costs represent the amount above what OADC would have incurred to litigate a case where the prosecution seeks a sentence of life without parole. By law, OADC must provide representation for death penalty appeals. All defendants sentenced to death enter the unitary appeal process, the length and complexity of which entails significant expenses for the state. Any future decrease in costs related to the death penalty appeals process has not been estimated.

### **Local Government Impact**

This bill may decrease costs and workload for district attorneys. Prosecuting a felony case without a possible sentence of death generally requires less time and fewer resources. Because of the infrequency with which district attorneys prosecute death penalty cases, any decrease in workload or costs is assumed to be minimal.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to offenses committed on or after July 1, 2017.

### **State and Local Government Contacts**

Corrections      District Attorneys      Information Technology      Judicial