



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 228** HLS 23RS 733
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 10, 2023	2:37 PM	Author: GREEN
Dept./Agy.: Corrections		
Subject: Eliminates the Death Penalty		Analyst: Daniel Druilhet

CRIMINAL/SENTENCING OR DECREASE GF EX See Note Page 1 of 2
 Eliminates the death penalty

Proposed law would eliminate the death penalty. Proposed law shall only apply prospectively.

EXPENDITURES	<u>2023-24</u>	<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>2027-28</u>	<u>5 -YEAR TOTAL</u>
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Annual Total						
REVENUES	<u>2023-24</u>	<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>2027-28</u>	<u>5 -YEAR TOTAL</u>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

Proposed law will result in an indeterminable decrease in SGF expenditures for the Department of Public Safety & Corrections - Corrections Services (DPS & C - CS) as a result of the elimination of the death penalty. There will be a decrease in expenditures of approximately \$17,763 per execution. There have been two executions since May 2002 in Louisiana: Gerald Bordelon in January 2010 and Leslie Martin in May 2002, both for first degree murder.

There will also be an indeterminable decrease in expenditures for DPS & C - CS due to a reduction in litigation associated with death penalty cases. DPS & C has incurred costs of approximately \$423,387 for defending lawsuits over the past 8 years related to the death penalty and the conditions of imprisonment for death row inmates.

Louisiana District Attorney's Association

There will be an indeterminable decrease in local expenditures for District Attorneys (DAs) for prospective cases per the Louisiana District Attorney's Association (LDAA). LDAA reports that capital cases leading up to and including the trial are estimated to cost approximately three times more than non-capital murder cases. Capital murder cases, up to and including trial, can cost in excess of \$250,000. In comparison, costs are approximately \$83,000 for non-capital murder cases, potentially saving \$167,000 per case. Additional savings may be realized for DAs as a result of eliminating substantial expenditures on the appeals and post-conviction relief portion of capital cases. Finally, the LDAA reports the proposed law may double the number of trials for first and second degree murder cases; thus, any potential savings resulting from the repeal is speculative and potentially offset by an increase in trials. Therefore, the net expenditure for DAs is indeterminable.

Louisiana Public Defender Board

There will be an indeterminable decrease in expenditures from the statutorily dedicated Louisiana Public Defender Fund for

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REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux

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 Interim Deputy Fiscal Officer



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CONTINUED EXPLANATION from page one:

the Louisiana Public Defender Board (LPDB). The proposed law will eliminate funding needed for capital representation upon the conclusion of all pending cases. In FY 23, LPDB projects the board will spend in excess of \$7.5 M, to provide statutorily mandated, constitutionally effective assistance of counsel in capital cases to indigent defendants at trial, on appeal, and in post-conviction proceedings. LPDB expenditures related to capital cases are outlined below.

Capital Trial Representation

During FY 23, LPDB projects the board will spend approximately \$4.5 M to provide representation to indigent defendants in capital cases at the trial level. The expenditures include the salary for counsel, investigators, mitigation specialists, and reasonably necessary expert assistance. Currently, there are approximately 18 capital cases pending at the trial level. These 18 cases would not be impacted by the proposed law (as it only has prospective application) and LPDB will continue to incur costs associated with the resolution of these cases. Capital cases can take 3 to 5 years to resolve at the trial level; therefore, the proposed law would result in small indeterminable reductions in expenditures during FY 24 and FY 25. More notable reductions in expenditures would begin in FY 26 and beyond.

Capital Appeals

During FY 23, LPDB projects the board will spend approximately \$1.05 M to provide representation to indigent defendants under sentence of death on direct appeal. LPDB will continue to incur costs associated with the resolution of these cases. LPDB anticipates the board will begin to see a decrease in expenditures in FY 25.

Capital Post-Conviction Representation

During FY 23, LPDB projects the board will spend approximately \$1.63 M to provide representation to 65 indigent defendants under sentence of death in post-conviction proceedings. LPDB will continue to incur costs associated with the resolution of these cases. LPDB anticipates the board will eventually see the reduction and elimination of these expenditures; however, it is unknown in which fiscal year the reduction will begin.

Senate

Dual Referral Rules

House

- 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
- 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

- 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
- 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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