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FISCAL IMPACT REPORT

SPONSOR: Garcia DATE TYPED: 02/18/03 HB _____

SHORT TITLE: Capital Felony Sentencing SB 51

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 Significant	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 272; Relates to SB 75.

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General (AG)

Corrections Department (CD)

SUMMARY

Synopsis of Bill

Senate Bill 51 amends Section 31-20A-5, adding one aggravating circumstance to the list of aggravating circumstances that may be considered in a capital felony proceeding

The bill makes the murder of a child less than eleven years of age an aggravating circumstance, making an eligible for the death penalty.

The bill cleans up technical language in the statute.

Significant Issues

It is unclear whether this new aggravating circumstance protects a class of individuals who are not already covered by existing aggravating circumstances. Offenders may be eligible under the death penalty under any of the existing aggravating circumstances. These include: murder dur-

ing the course of a kidnapping, sexual contact with a minor, or criminal sexual penetration, or murder of a witness.

The Public Defender Department (PDD) notes that adding an additional aggravator to cover a class of citizens who are already covered by the death penalty statute will likely spur a number of protracted appeals. PDD indicates that the additional circumstance raises a number of questions. For example, does the perpetrator have to know that the child is below the age of eleven?

FISCAL IMPLICATIONS

Adding to the number of aggravating circumstances for consideration in capital felony cases poses a significant cost for the state. Increased penalties will likely increase the workload throughout the judiciary, necessitating increased resources for the courts, district attorneys and public defenders.

The Administrative Office of the Courts (AOC) notes that because district courts conduct both a sentencing and a trial phase in death penalty cases, the need for increased resources is critical.

AG indicates that an increase in the number of death penalty cases will likely increase the caseload in its criminal appeals division. These cases are complex and require a great amount of time to prepare and argue.

DUPLICATES

Partially duplicates SB 75, which includes a provision adding an aggravating circumstance for the deliberate, intentional murder of a child less than **thirteen** years of age. Duplicates SB 272.

TECHNICAL ISSUES

The Administrative Office of the District Attorneys (AODA) suggests making the age of victim consistent with other areas of the Criminal Code such as 30-9-11(C)(1), 30-9-13(A)(1) or 30-9-18, where the age is thirteen years or less.

JCF/njw