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FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/11

SPONSOR Kintigh LAST UPDATED HB 20

SHORT TITLE Increase Second Degree Murder Penalty SB

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	\$17.13-\$171.3	\$17.13-\$171.3	\$34.26-\$342.6	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorney (AODA)
 Attorney General's Office (AOC)
 Public Defender Department (PDD)
 Parole Board (PB)

SUMMARY

Synopsis of Bill

House Bill 20 proposes to increase the penalty for second-degree murder (committing acts that result in the death of a human being without lawful justification or excuse and with knowledge that those acts create a strong probability of death or great bodily harm to that individual or another) from fifteen to twenty-five years.

FISCAL IMPLICATIONS

Both AOC and AGO note that there may be fewer plea agreements due to the increased penalty, which would increase the number of jury trials in the district courts, with a corresponding impact on the jury fund. Costs shown in the table above were derived from data provided by AOC, and include those incurred for prosecution, defense and judicial time for cases that actually go to trial, plus an average of \$7,500 per trial for jury costs. Assuming ten additional trials per year, the costs increased tenfold: from \$17,130 to \$171,300.

Additional costs will be incurred by the Corrections Department, at the average rate of \$38,000 per year per inmate, totaling \$380,000 over ten years, for the additional ten years of incarceration (assuming no suspension, deferral or meritorious deductions). Those costs will not occur until fifteen years after a conviction, and thus are not reflected in the table above, which only addresses the next two FYs.

SIGNIFICANT ISSUES

AGO notes that the penalty for first degree murder is life, which is defined as thirty years. The agency suggests that if one penalty is adjusted, it may be appropriate to consider other penalties to make them proportional to the crime. Similarly, PDD points out that any first degree crime that does not result in the death of a child or aggravated second degree criminal sexual penetration would be subject to lesser imprisonment than second degree murder. Such a result may confuse the difference between first and second degree felonies, and what each signifies within the structure of the justice system.

PERFORMANCE IMPLICATIONS

PB notes that it is harder to contact victims and collect records at the time of a parole hearing when a prisoner serves a lengthy sentence.

MD/mew