

May 17, 2016

L E G I S L A T I V E A N A L Y S T ' S O F F I C E

LAO 
75
YEARS OF
SERVICE

Death Penalty. Initiative Statute.

Presented to:
Assembly Public Safety Committee
Hon. Reginald B. Jones-Sawyer, Sr., Chair
and
Senate Public Safety Committee
Hon. Loni Hancock, Chair





LAO Role in Initiative Process



Fiscal Analysis Prior to Signature Collection

- State law requires our office to work with the Department of Finance to prepare a joint impartial fiscal analysis of each initiative before it can be circulated for signatures. State law requires that this analysis provide an estimate of the measure's fiscal impact on the state and local governments.
- The fiscal analysis must be submitted to the Attorney General within 50 calendar days from the initiative's submission date. A summary of the estimated fiscal impact is included on petitions that are circulated for signatures.



Analyses After Measure Receives Sufficient Signatures to Qualify for the Ballot

- State law requires our office to provide impartial analyses of all statewide ballot propositions for the statewide voter information guide, including a description of the measure and its fiscal effects.
- We are currently in the process of preparing these materials.

Background



Murder Punishable by Death

- First degree murder is generally defined as the unlawful killing of a human being that (1) is deliberate and premeditated or (2) takes place at the same time as certain other crimes, such as kidnapping.
- First degree murder is punishable by a life sentence in state prison with the possibility of being released by the state parole board after a minimum of 25 years. However, first degree murder can be punishable by death or life imprisonment without the possibility of parole when specified “special circumstances” of the crime have been charged and proven in court.
- Existing state law identifies a number of special circumstances that can be charged, such as in cases when the murder is carried out for financial gain or more than one murder was committed.



Death Penalty Proceedings

- Death penalty trials are generally divided into two phases: (1) determining whether the defendant is guilty of murder and any charged special circumstance, and (2) determining whether the death penalty should be imposed if the defendant is convicted of murder and a special circumstance.
- Death penalty cases ordinarily involve extensive legal challenges in both the California Supreme Court and the federal courts following a death sentence. These proceedings can take a couple of decades to complete in California.



Implementation of the Death Penalty

- Since the current death penalty law was enacted in California in 1978, 930 individuals have received a death sentence. Of these, 15 have been executed, 103 have died prior to being executed, 748 are in state prison with death sentences, and 64 have had their sentences reduced by the courts. Most of the offenders in state prison are at various states of litigation related to their cases.
- Condemned inmates generally cost more to house than typical inmates due to increased security requirements, such as being housed in single cells and being escorted at all times by one or two officers while outside their cells.
- The state prisons generally use lethal injection to execute condemned inmates. Because of legal issues surrounding the state's lethal injection procedures, executions have not taken place since 2006. The state is currently in the process of developing regulations to allow for executions to resume.



Major Provisions of Proposed Initiative

- Elimination of Death Penalty for First Degree Murder.*** Under this measure, no offender could be sentenced to death by the state for first degree murder. The most serious penalty available would be a prison term of life without the possibility parole.

- Resentencing of Inmates With Death Sentences to Life Without the Possibility of Parole.*** The measure specifies that offenders currently sentenced to death would not be executed and would be resentenced to a prison term of life without the possibility of parole. The California Supreme Court could transfer all of the existing death penalty legal challenges pending before it to the state's Courts of Appeal or trial courts.

- Inmate Work and Payments to Crime Victim Requirements.*** The measure specifies that every person found guilty of murder must work while in state prison and have their pay deducted for any debts they owe to victims of crime, subject to state regulations. Because the measure does not change current state regulations related to inmate work, existing practices would not necessarily be changed. The measure increases from 50 percent to 60 percent the maximum amount that may be deducted from the wages of inmates sentenced to life without the possibility of parole for any debts owed to victims of crime.



Major Fiscal Effects of Proposed Initiative



Murder Trials

- The measure would reduce state and county costs associated with some murder cases by (1) shortening the duration of some trials and (2) reducing costs incurred by counties for prosecutors and public defenders.
- In total, the measure could reduce state and county costs for murder trials by several tens of millions of dollars annually on a statewide basis. The actual reduction would depend on various factors, including the number of death penalty trials that would otherwise occur in the absence of the measure.



Legal Challenges to Death Sentences

- Over time, the measure would reduce expenditures by state agencies participating in the legal challenges to death sentences by about \$55 million annually.
- These reduced costs likely would be partially offset in the short run because some state expenditures would probably continue until the courts resolved all currently pending legal challenges.



State Prisons

- The measure would result in a somewhat higher prison population and higher prison costs as formerly condemned inmates are sentenced to life without the possibility of parole. However, these added costs likely would be more than offset by reduced costs from not having to house hundreds of inmates on death row.
- The net effect of these fiscal impacts would likely be a net reduction in state costs for the operation of the state's prison system of several tens of millions of dollars annually. The actual reduction could be higher or lower depending on the rate of executions that would have otherwise occurred.



Major Fiscal Effects of Proposed Initiative

(Continued)



Summary of Fiscal Effects

- In total, we estimate that this measure would reduce net state and local government costs related to murder trials, legal challenges to death sentences, and prisons. These reduced costs would likely be around \$150 million annually within a few years. This reduction could be higher or lower by tens of millions of dollars, depending on various factors.