

SB 593-FN - VERSION ADOPTED BY BOTH BODIES

2018 SESSION

18-2707

04/06

SENATE BILL ***593-FN***

AN ACT relative to the penalty for capital murder.

SPONSORS: Sen. Avar, Dist 12; Sen. Daniels, Dist 11; Sen. Ward, Dist 8; Sen. Giuda, Dist 2;
Sen. French, Dist 7; Sen. Woodburn, Dist 1; Sen. Watters, Dist 4; Sen. Fuller
Clark, Dist 21; Sen. Feltes, Dist 15; Sen. Soucy, Dist 18; Sen. Hennessey, Dist 5;
Sen. Kahn, Dist 10; Sen. Lasky, Dist 13; Rep. McGuire, Merr. 29; Rep. O'Leary,
Hills. 13; Rep. Cushing, Rock. 21; Rep. Kotowski, Merr. 24; Rep. Souza, Hills. 43

COMMITTEE: Judiciary

ANALYSIS

This bill changes the penalty for capital murder to life imprisonment without the possibility for parole.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to the penalty for capital murder.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Homicide; Capital Murder. Amend RSA 630:1, III to read as follows:

2 III. A person convicted of a capital murder [~~may be punished by death~~] ***shall be sentenced***
3 ***to imprisonment for life without the possibility for parole.***

4 2 Applicability. Section 1 of this act shall apply to persons convicted of capital murder on or
5 after the effective date of this act.

6 3 Effective Date. This act shall take effect January 1, 2019.

**SB 593-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the penalty for capital murder.

FISCAL IMPACT: ☒ **State** ☐ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Funding Source:	☒ General	☐ Education	☐ Highway	☐ Other

METHODOLOGY:

This bill would change the death penalty for capital murder from the death penalty to a mandatory sentence of life in prison without the possibility of parole.

The Judicial Branch states this bill could reduce expenditures for the Branch because there would be no penalty phase trial which is required in a death penalty case and because life in prison cases are less hard-fought, usually resulting in shorter trials than in cases in which the death penalty is a possible outcome. The Branch indicates there have been only two death penalty cases prosecuted to conclusion in the past decade and, over the years, New Hampshire has seen so few capital murder indictments that potential savings would be unquantifiable and sporadic. Currently, no capital murder cases are pending trial.

The Judicial Council indicates there have been two capital cases handled by the indigent defense delivery system in the last 20 years. One case was handled by the Public Defender without the need for an additional appropriation because the defended pleaded guilty early in the case in order to avoid the death penalty. The second case has lasted nine years and the State has spent over \$2.8 million in defense costs to date. The Council indicates if the death penalty is repealed, it would not face the extraordinary expenditures necessary to provide representation to an indigent defendant in a capital case.

The Department of Justice states, as a general matter, capital murder cases in which the death penalty is sought are more expensive to investigate and prosecute than non-death penalty cases.

The Department has prosecuted two death penalty cases; State of N.H. vs Brooks and State of N.H. vs Addison. The cost of the Brooks case was \$1.3 million and, to date, the cost to prosecute the Addison case has been \$2.5 million. The Addison case will continue for several more years resulting in additional costs. The Department indicates the cost to prosecute a first or second degree murder, which would be the equivalent of a non-death penalty capital murder case, is wide ranging. In the past three years, three homicide cases have gone through the trial and appellate process. The cost of those cases ranged from \$403,333 to \$549,995. In the same period 13 homicide cases have been resolved by plea agreement. The costs for those cases ranged from \$16,350 to \$174,298. The Department states State expenditures would decrease as a result the bill, but it is not possible to estimate the amount.

The Department of Corrections is not able to determine the fiscal impact of the bill because it has no information that could be used to predict the number of individuals that would be subject to this legislation. The average annual cost of incarcerating an individual in the general population was \$36,960 for the fiscal year ending June 30, 2017 and the annual marginal cost of an additional prisoner in the general population is \$4,555. The average cost to supervise an individual by the Department's Division of Field Services for the year ending June 30, 2017 was \$557.

The New Hampshire Association of Counties states this bill would have no fiscal impact on county revenues or expenditures.

AGENCIES CONTACTED:

Departments of Justice and Corrections, Judicial Branch, Judicial Council and New Hampshire Association of Counties