

HB 455-FN - AS INTRODUCED

2019 SESSION

19-0185
04/05

HOUSE BILL **455-FN**

AN ACT relative to the penalty for capital murder.

SPONSORS: Rep. Cushing, Rock. 21; Rep. Danielson, Hills. 7; Rep. McGuire, Merr. 29; Rep. O'Connor, Rock. 6; Rep. Pantelakos, Rock. 25; Rep. Harriott-Gathright, Hills. 36; Rep. Welch, Rock. 13; Rep. Wallner, Merr. 10; Rep. Berch, Ches. 1; Sen. Giuda, Dist 2; Sen. Fuller Clark, Dist 21; Sen. Reagan, Dist 17

COMMITTEE: Criminal Justice and Public Safety

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 struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

19-0185
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to the penalty for capital murder.

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

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

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

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

3 Effective Date. This act shall take effect upon its passage.

LBAO
19-0185
1/8/19

**HB 455-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the penalty for capital murder.

FISCAL IMPACT: State County Local None

Estimated Increase / (Decrease)			

STATE:	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Funding Source:	[X] General	[] Education	[] Highway	[] Other

METHODOLOGY:

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

The Judicial Branch indicates this bill would reduce the penalty for capital murder from the death penalty to a mandatory sentence of life in prison without the possibility of parole. The Branch states this bill could result in savings to the Branch because there would be no penalty phase trial as currently required in a death penalty case. In addition, life in prison cases are less hard-fought, usually resulting in shorter trials, than in cases where the death penalty is a possible outcome. New Hampshire has seen two death penalty cases prosecuted in the 2000's, but historically there are so few cases any possible savings would be indeterminable and sporadic. There are no murder cases currently 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 \$2.9 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 NH 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. The costs range from \$400,000 to \$550,000. The cost for homicide cases that have been resolved by plea agreement ranged from \$16,500 to \$175,000. The Department indicates that 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 \$40,615 for the fiscal year ending June 30, 2018 and the average marginal cost of an additional prisoner in the general population was \$4,620. The average cost to supervise an individual by the Department's Division of Field Services for FY 2018 was \$557.

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Departments of Justice and Corrections