

1 **COSTS FOR AGGRAVATED MURDER OFFENSES**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen G. Handy**

5 Senate Sponsor: Todd Weiler

6

LONG TITLE

7 **General Description:**

8 This bill directs the Legislative Auditor General to conduct an audit of the comparative
9 costs of the death penalty capital offenses and nondeath penalty capital cases.
10

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides the auditor with guidelines for determining the scope of costs incurred by
- 14 capital cases, including when the death penalty is sought and when it is not;
- 15 ▶ describes the various prosecutions and outcomes regarding capital cases, including
- 16 conviction and plea bargains; and
- 17 ▶ directs that the auditor report to the Legislature, including recommendations.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 ENACTS:

24 **36-31-101**, Utah Code Annotated 1953

25

Be it enacted by the Legislature of the state of Utah:

26 Section 1. Section **36-31-101** is enacted to read:
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28 36-31-101. Death penalty audit.

29 (1) The Office of the Legislative Auditor General shall conduct an audit, subject to the
30 prioritization of the Legislative Audit Subcommittee, to determine the fiscal costs and potential
31 cost avoidance to state and local agencies, and other entities:

32 (a) to prosecute capital offenses as:

33 (i) death penalty cases; or

34 (ii) cases where the death penalty is not sought;

35 (b) to prosecute capital offenses as death penalty cases when the death penalty is
36 imposed, and when the death penalty is not imposed;

37 (c) to prosecute capital offenses when the death penalty is sought but the case is:

38 (i) resolved by plea bargain;

39 (ii) resolved without trial by a sentence of life without parole; or

40 (iii) addressed by other strategic litigation decisions that result in a plea that resolves
41 the capital offense charge;

42 (d) in the appeal process for capital cases, when the death penalty is imposed; and

43 (e) when a case is resolved by a sentence lesser than life without parole.

44 (2) The audit shall include the following costs for death penalty capital cases as
45 compared to nondeath penalty cases in each of the types of prosecutions and case resolutions
46 described in Subsection (1), as incurred:

47 (a) by:

48 (i) law enforcement;

49 (ii) county jails;

50 (iii) the court, including use of buildings and facilities, staff, and security;

51 (iv) the Department of Corrections prior to the exhaustion of appeals of a capital
52 conviction;

53 (v) the Department of Corrections regarding incarceration of persons convicted of
54 capital offenses after the exhaustion of the defendant's appeals, both when the death penalty is
55 imposed and when the death penalty is not imposed; and

56 (vi) the Board of Pardons and Parole, where applicable; and

57 (b) for:

58 (i) pretrial costs;

- 59 (ii) medical and psychiatric services provided to the defendant, including examinations
60 and testimony;
- 61 (iii) expert witnesses;
- 62 (iv) other witnesses;
- 63 (v) juries;
- 64 (vi) sentencing hearings;
- 65 (vii) prosecution, including both state and county prosecutors;
- 66 (viii) defense costs, including state and local defense attorneys;
- 67 (ix) appeals and postconviction actions; and
- 68 (x) the execution, including facilities, staff, and security measures.
- 69 (3) The audit shall include any cost avoided for the costs listed in Subsection (2) for
70 any aggravated murder case that is:
- 71 (a) resolved by plea bargain;
- 72 (b) resolved without trial by a sentence of life without parole; or
- 73 (c) addressed by other strategic litigation decisions that result in a plea that resolves the
74 capital offense charge.
- 75 (4) The Office of the Legislative Auditor General shall report to the:
- 76 (a) Law Enforcement and Criminal Justice Interim Committee; and
- 77 (b) Executive Offices and Criminal Justice Appropriations Subcommittee.
- 78 (5) The report shall include:
- 79 (a) the audit findings;
- 80 (b) issues the auditor may find that limit access to information; and
- 81 (c) recommendations the auditor may have for legislative action to facilitate improved
82 access to agency information.