

Senate Bill 367

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates Death Penalty Review Committee to review prosecutions for aggravated murder. Requires county to reimburse state for one-half of costs associated with death penalty, unless Death Penalty Review Committee provides district attorney with recommendation to seek sentence of death.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the death penalty; appropriating money; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1)(a) Except as provided in subsection (2) of this section, no later than six**
5 **months after the filing of an accusatory instrument charging a person with aggravated**
6 **murder as defined in ORS 163.095, the county in which the person is charged shall pay over**
7 **to the Department of Revenue, for deposit in the General Fund, an amount of moneys equal**
8 **to the average cost of conducting death penalty litigation as determined under subsection**
9 **(3)(a) of this section.**

10 **(b) When a county complies with paragraph (a) of this subsection and the defendant is**
11 **subsequently acquitted of aggravated murder, sentenced to life imprisonment without the**
12 **possibility of release or parole as described in ORS 163.105 (1)(b) or sentenced to life**
13 **imprisonment as described in ORS 163.105 (1)(c), the Department of Revenue shall return to**
14 **the county one-half of the moneys paid under paragraph (a) of this subsection, less actual**
15 **costs incurred in the prosecution as determined under subsection (3)(c) of this section.**

16 **(2) Subsection (1) of this section does not apply if the district attorney files with the**
17 **court the written recommendation of the Death Penalty Review Committee, provided in ac-**
18 **cordance with section 2 of this 2011 Act, that the district attorney present evidence for the**
19 **purpose of sentencing the defendant to death under ORS 163.150.**

20 **(3)(a) Once every five years, the Judicial Department, the Department of Justice and the**
21 **Public Defense Services Commission shall determine the average cost of conducting death**
22 **penalty litigation and provide that information to the Department of Revenue.**

23 **(b) The average cost of conducting death penalty litigation is determined by subtracting**
24 **the average amount of moneys each agency expends in an aggravated murder case in which**
25 **a sentence other than death is imposed from the average amount of moneys each agency**
26 **expends in an aggravated murder case in which a sentence of death is imposed. The average**
27 **expenditures include expenditures associated with:**

28 **(A) The trial;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) The sentencing proceeding described in ORS 163.150;

2 (C) The death warrant hearing described in ORS 137.463;

3 (D) Direct appellate review under ORS 138.012; and

4 (E) Any other post-conviction proceeding involving the conviction or the imposition or
5 execution of the sentence.

6 (c) Upon request of the Department of Revenue, the Judicial Department, the Depart-
7 ment of Justice and the Public Defense Services Commission shall provide the Department
8 of Revenue with a determination of the actual amount of moneys the agency expended in an
9 aggravated murder case in which a sentence of death is not imposed.

10 **SECTION 2.** (1) Upon the filing of an accusatory instrument charging a person with ag-
11 gravated murder as defined in ORS 163.095, the district attorney shall provide the Death
12 Penalty Review Committee created in section 3 of this 2011 Act with information relevant to
13 the decision to present evidence for purposes of sentencing the defendant to death under
14 ORS 163.150. The committee may seek additional information from the attorney representing
15 the defendant and from any other source. Information provided to the committee under this
16 subsection is confidential and may not be disclosed.

17 (2) The committee shall evaluate the circumstances surrounding the alleged aggravated
18 murder and any other information that the committee deems relevant to the question of
19 whether the district attorney should present evidence for purposes of sentencing the de-
20 fendant to death.

21 (3)(a) No later than five months following the filing of an accusatory instrument charging
22 a person with aggravated murder, the committee shall provide the district attorney with a
23 written recommendation that the district attorney either present or decline to present evi-
24 dence for the purposes of sentencing the defendant to death.

25 (b) The recommendation of the committee is not subject to the contested case provisions
26 of ORS chapter 183 and is not subject to review by any agency or court.

27 **SECTION 3.** (1) There is created the Death Penalty Review Committee consisting of five
28 members appointed as follows:

29 (a) The Attorney General or designee of the Attorney General who shall serve as chair
30 of the committee.

31 (b) One former district attorney or former deputy district attorney who has experience
32 with aggravated murder cases, appointed by the Governor.

33 (c) One defense attorney who has experience with aggravated murder cases, appointed
34 by the public defense services executive director.

35 (d) Two retired judges who have experience with aggravated murder cases, appointed by
36 the Governor. A retired judge described in ORS 238.535 (1)(b) may not serve on the commit-
37 tee.

38 (2) The committee shall:

39 (a) Review death penalty cases and provide recommendations to district attorneys in ac-
40 cordance with section 2 of this 2011 Act.

41 (b) Submit a report to the Legislative Assembly in the manner provided in ORS 192.245,
42 no later than March 1 of each odd-numbered year, that includes the number of cases re-
43 viewed by the committee and the number of cases for which the committee recommended
44 that the district attorney present evidence for the purposes of sentencing a defendant to
45 death under ORS 163.150.

1 **(3) A majority of the members of the committee constitutes a quorum for the transaction**
2 **of business.**

3 **(4) Official action by the committee requires the approval of a majority of the members**
4 **of the committee.**

5 **(5) If there is a vacancy for any cause, the appointing authority shall make an appoint-**
6 **ment to become effective immediately.**

7 **(6) The committee shall meet at times and places specified by the Attorney General or**
8 **designee of the Attorney General.**

9 **(7) The Department of Justice shall provide staff support to the committee.**

10 **(8) All agencies of state government as defined in ORS 174.111 are directed to assist the**
11 **committee in the performance of its duties and, to the extent permitted by laws relating to**
12 **confidentiality, to furnish such information and advice as the members of the committee**
13 **consider necessary to perform their duties.**

14 **(9) Service on the committee entitles the members described in subsection (1)(b) to (d)**
15 **of this section to compensation in the amount of \$200 a day plus necessary travel expenses.**

16 **(10) ORS 192.610 to 192.690 do not apply to the meetings of the committee.**

17 **(11) Records of the committee are confidential and exempt from public disclosure under**
18 **ORS 192.410 to 192.505.**

19 **SECTION 4. (1) Sections 1 to 3 of this 2011 Act apply to prosecutions for aggravated**
20 **murder alleged to have been committed on or after the effective date of this 2011 Act.**

21 **(2) As soon as practicable after the effective date of this 2011 Act, the Judicial Depart-**
22 **ment, the Department of Justice and the Public Defense Services Commission shall deter-**
23 **mine the average cost of conducting death penalty litigation, as described in section 1 (3)(b)**
24 **of this 2011 Act, and provide that information to the Department of Revenue.**

25 **SECTION 5. There is appropriated to the Department of Justice, for the biennium be-**
26 **ginning July 1, 2011, out of the General Fund, the amount of \$_____ for the purpose of**
27 **carrying out the provisions of sections 1 to 3 of this 2011 Act.**

28 **SECTION 6. This 2011 Act being necessary for the immediate 4 preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
30 **on its passage.**

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