

LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT

LS 7043

BILL NUMBER: HB 1432

NOTE PREPARED: Jan 5, 2026

BILL AMENDED:

SUBJECT: Death Sentence and Intellectual Disabilities.

FIRST AUTHOR: Rep. Bascom

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits the state from seeking the death penalty against a defendant if a court determines at any time before trial that the defendant has an intellectual disability. (Under current law, the court must make this determination at a specified pretrial hearing.)

Effective Date: July 1, 2026.

Explanation of State Expenditures: *Summary* - Both the state General Fund (which pays for the costs of housing offenders in the Department of Correction (DOC) facilities) and the State Public Defense Fund (which reimburses counties for qualified expenses of providing criminal defense for indigent defendants) would be affected by this bill.

To the extent that the four individuals with active capital cases petition alleging an intellectual disability, costs to the DOC are estimated to increase by an indeterminate amount. Future requests for the death penalty are expected to remain low based on trends over the past 15 years, due in part to the significantly higher costs to counties of conducting jury trials and covering criminal defense expenses when defendants are indigent.

Public Defense Fund: Any savings to the Public Defense Fund from the defendants who are currently in death penalty trials would depend on how far each trial has progressed. If these cases are still in their initial stages, the state could save an estimated \$260,000 for each person who is currently on trial. These savings would come from two sources: (1) death penalty trials require two attorneys to represent the defendant and (2) the Public Defense Fund reimburses the counties for 50% of qualified expenses for death penalty trials and 40% when the most serious punishment would be a fixed term of years.

The average expenditure to house an adult offender was \$30,674 annually, or \$83.98 daily, in FY 2025. If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,825 annually, or \$13.22 daily, per prisoner. These marginal cost estimates are based on contractual agreements with food and medical vendors and projections based on prior years for clothing and hygiene.

Additional Information - Defendants Awaiting Trial: Four individuals are currently defendants in death penalty trials as of October 19, 2025. If any individual awaiting trial in a capital case is found to be intellectually disabled, the state could spend approximately \$143,300 more to confine that individual for a fixed term than if the individual were sentenced to death. The number of defendants awaiting trial who have raised intellectual disability as a defense is unknown. These additional confinement costs would be offset by savings to the State Public Defense Fund of approximately \$1.04 million in criminal defense expenses, based on average savings of \$260,000 per defendant, assuming costs remain consistent throughout the defendants' trial.

"Individual with an intellectual disability" means an individual who, before becoming twenty-two years of age, manifests: (1) significantly subaverage intellectual functioning; and (2) substantial impairment of adaptive behavior; that is documented in a court ordered evaluation report.

Intellectual Disability: Individuals determined to have an intellectual disability are not eligible for the death penalty or life without parole but may be sentenced to a fixed term of incarceration. Limiting sentencing options to a fixed term for these individuals could increase confinement costs but reduce criminal defense costs for indigent defendants. The cost to the state of confining individuals to a term of years is slightly higher than the cost of a life without parole sentence. On average, the State Public Defense Fund spends \$9,300 less when an individual receives a term of years rather than a life sentence.

The number of persons who have presented an intellectual disability as a defense or mitigating factor is not known.

Average Cost for Confinement and Legal Representation of Criminal Defendants Who Were Eligible for the Death Penalty in Murder Trials Between 1995 and 2020 All Costs Are Stated in 2025 Dollars					
Original Request	Number of Cases	Average Cost of Incarceration Per Case*	State Reimbursement Counties	Average Costs to State Public Defense*	Combined Costs
Death	46	\$319,921	50%	\$282,184	\$602,105
Life Without Parole	34	\$352,113	40%	\$21,350	\$373,463
Fixed Term	171	\$355,738	40%	\$11,975	\$367,713

*Adjusted for inflation.

The Public Defense Fund reimburses counties for the following costs of providing indigent defense services: attorney fees, investigations, expert witnesses, paralegals, transcript costs, and cost of direct appeals.

For death penalty cases, counties are reimbursed for 50% of these costs. For cases that are not death penalty murder cases, counties are reimbursed for 40% of their costs when the county complies with the noncapital standards adopted by the Commission for Court Appointed Attorneys.

Explanation of State Revenues:

Explanation of Local Expenditures: To the extent that a defendant files a motion alleging intellectual

disability and the petition is granted, counties could avoid spending an average of nearly \$252,500 on indigent criminal defense and an additional \$44,700 if the case would otherwise proceed to a jury trial.

Defendants Awaiting Trial: Depending on the stage of litigation in the four death penalty cases, counties could avoid the costs associated with lengthy jury trials, increased attorney fees, and appeals. For the counties in which the death penalty has been sought for these four defendants, potential savings in indigent criminal defense costs could total approximately \$1.2 million if the defendants are sentenced to fixed terms of years.

Counties pay all costs related to jury trials (when defendants request jury trials), in addition to a portion of indigent defense expenses. If a case is tried by a jury, the county would save an average of \$44,700 if the defendant is sentenced to a fixed term of years.

Intellectual Disability: If a fixed term of incarceration is the only sentencing option in murder cases where the defendant has been determined to have an intellectual disability, the county in which the trial occurs could save an estimated \$2,120 in trial costs and \$13,000 in indigent criminal defense expenses.

Original Request	Number of Cases	Average Cost of Jury Trials	County Share	Average Costs to State Public Defense*	Combined Costs
Death	46	\$54,113	50%	\$282,184	\$336,297
Life Without Parole	34	\$9,399	60%	\$29,653	\$39,052
Fixed Term	171	\$7,279	60%	\$16,632	\$23,911

Evaluations: Depending on how often criminal defendants choose to plead not guilty for reason of insanity, this bill could increase local expenditures to conduct evaluations. The mental health witnesses shall also testify as to whether the defendant is an individual with an intellectual disability even if the defendant elects not to raise the defense of insanity at trial.

Generally, forensic psychologists are paid between \$150 and \$200 per hour, while psychiatrists charge between \$250 and \$400 per hour. The actual cost for an evaluation will depend on the amount of time that the mental health professional spends with the defendant.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction; State Public Defender; Office of the Attorney General; Commission on Court Appointed Attorneys; Office of Judicial Administration, Indiana Supreme Court.

Local Agencies Affected: Trial courts; prosecuting attorneys; county sheriffs; local law enforcement agencies.

Information Sources: Department of Correction; Public Defense Fund; OFMA survey of counties; Indiana Public Defenders Council; Health Expenditures by Age and Gender <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Age-and-GenderTheIndianaLawyer>, *Indiana's death row dwindles to five - and future executions remain*, December 28, 2025, <https://www.theindianalawyer.com/articles/indianas-death-row-dwindles-to-five-and-future-executions-re>

main-uncertain#:~:text=Pending%20capital%20cases,2024%2C%20Supreme%20Court%20data%20shows.; Death Penalty Information Center, *COSTS: Indiana Death Penalty Cases Can Cost \$1 Million*, January 1, 2026, <https://deathpenaltyinfo.org/costs-indiana-death-penalty-cases-can-cost-1-million>.

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