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FISCAL IMPACT REPORT

SPONSOR: Komadina DATE TYPED: 2/8/01 HB _____
 SHORT TITLE: Capitol Felony Sentencing Changes SB 406
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative		Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

Duplicates: HB 438

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
 Public Defender (PD)

SUMMARY

Synopsis of Bill

The Capitol Felony Sentencing Changes bill makes technical changes in the law and adds an additional provision to the felony sentencing aggravating circumstances section. The additional section provides that among capitol punishment circumstances that a court or jury must consider is whether the victim was a peace officer who was murdered because of his present or former status as a peace officer.

FISCAL IMPLICATIONS

See Administrative Implications.

ADMINISTRATIVE IMPLICATIONS

The AOC reports that the judicial system will spend \$400 for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

The Public Defender reports that if this bill is passed and interpreted too broadly, peace officers, former or active, may become protected citizens far beyond that contemplated. If prosecutors could ask for

capitol sentencing no matter how remote the murder may have been from the official's performance of the duty. In that event, the fiscal ramifications would be immense. Each capitol murder trial can cost well over \$100.0, not including appellate and post-appellate process.

OTHER SUBSTANTIVE ISSUES

The Public Defender believes that the provision may be redundant. If the victim was a current, on-duty police officer ("present status") then the aggravator is already covered in the existing statute: (a. the victim was a peace officer who was acting in the lawful discharge of an official duty when he was murdered.) "Official duty" would seem to contemplate the murder of a police officer, even off-duty, if he is a witness or potential witness. But even if it does not, paragraph g. speaks directly to that situation: "the capital felony was murder of a witness to a crime or any person likely to become a witness to a crime, for the purpose of preventing report of a crime or testimony in any criminal proceeding or for retaliation for the victim having testified in any criminal proceeding."

However, the AOC believes that the amendment clears up an ambiguity in the existing definition by causing all murders of a peace officer to be defined as an "aggravated circumstance."

FAR/njw