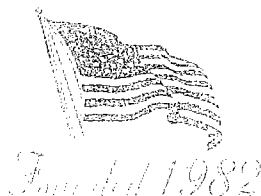


# Criminal Justice Legal Foundation

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June 3, 2011

Governor Brian Sandoval  
Office of the Governor  
101 North Carson Street  
Carson City, NV 89701

Re: Assembly Bill 501

Dear Governor Sandoval:

Assembly Bill 501 directs “an audit of the fiscal costs associated with the death penalty in this State.” A full, balanced study of the costs associated with retaining, reforming, or abolishing the death penalty would be informative for the public debate. Regrettably, this imbalanced and poorly drafted bill does not call for such a study. It calls for a one-sided study for use as a propaganda tool by the opponents of capital punishment. The State of Nevada has better uses for its limited dollars.

AB 501 focuses solely on the cost of prosecuting a particular case as a capital case versus a noncapital case. No one doubts that the capital prosecution is substantially more expensive. The full cost picture, however, involves other considerations that are ignored by this bill and by the study the bill calls for.

*The plea bargain effect:* In states with capital punishment, it is common to hear that a murderer has pleaded guilty and received a life sentence in order to avoid the death penalty. Common sense tells us that such dispositions would be less common in states where the death penalty is unavailable. There have been two studies in the area, and both confirm this common-sense conclusion.<sup>1</sup> The greater cost of capital cases that do go to trial is offset, at least in part, by the savings of avoiding trial altogether in plea bargain cases ending with a sentence of life imprisonment. The study called for by AB 501 completely ignores this effect.

Governor Brian Sandoval  
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*The cost of aging inmates:* Whenever abolition of the death penalty is debated, the proposed alternative is life in prison without possibility of parole. The cost of that alternative is not simply the average per-prisoner cost of the state prison system times the murderer's life expectancy. It is much higher due to the high and escalating cost of constitutionally required medical care for prisoners near the end of their natural lives. One study estimated the total cost of life imprisonment to be \$4 million.<sup>2</sup> AB 501 simply ignores this cost.

*Savings from reform:* The true cost question is not the cost of the status quo but the cost of the various alternatives available. AB 501 merely calls for an audit of the present costs of appellate and postconviction proceedings and incarceration of the death row inmates during the proceedings. The process does not need to take as long as it does or cost as much as it does. Virginia executed the D.C. Sniper less than six years after his sentence, and that is not unusual in Virginia. Similar reforms could be implemented in Nevada with a dramatic reduction in time and much of the associated cost. A study which merely determines the cost of the status quo without considering the savings available from reform provides little useful information for the next Legislature to choose from among the alternatives.

For these reasons, the Criminal Justice Legal Foundation recommends that you veto this ill-considered piece of legislation.

Sincerely,

A handwritten signature in black ink, reading "Kent S. Scheidegger". The signature is written in a cursive, flowing style.

Kent S. Scheidegger

KSS:iha

Governor Brian Sandoval

June 3, 2011

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1. Kuziemko, Does the Threat of the Death Penalty Affect Plea Bargaining in Murder Cases? Evidence from New York's 1995 Reinstatement of Capital Punishment, 8 Am. L. & Econ. Rev. 116 (2006); Scheidegger, The Death Penalty and Plea Bargaining to Life Sentences (2009), <http://www.cjlf.org/papers/wpaper09-01.pdf>.
2. Wendy Fry, Costs of Aging Inmates (Jan. 20, 2010), <http://www.kpbs.org/news/2010/jan/20/costs-aging-inmates/>