

**STATE
FISCAL IMPACT**

Drafting Number: LLS 13-0183	Date: January 24, 2013
Prime Sponsor(s): Rep. McNulty Sen. Lundberg	Bill Status: House SVMA
	Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING REQUIRING THE DEFENDANT TO PROVE THE AFFIRMATIVE DEFENSE OF NOT GUILTY BY REASON OF INSANITY BY CLEAR AND CONVINCING EVIDENCE.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures	Increase - see State Expenditures section.	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill requires a defendant to prove insanity by clear and convincing evidence. Under current law, when a defendant pleads not guilty by reason of insanity (NGRI), the burden to prove sanity beyond a reasonable doubt is placed on the prosecution.

State Expenditures

This bill is expected to increase workload within the Judicial Department and the Office of the State Public Defender (OSPD) by a minimal amount. By shifting the burden of proof of insanity to the defendant and increasing the standard from "beyond a reasonable doubt" to "clear and convincing evidence," this analysis assumes constitutional challenges could occur and hearing times may increase as a result of the defense needing to provide additional witnesses to prove insanity. Similarly, costs could increase for the OSPD as a result of needing to use mental health experts more frequently, as well as requiring additional time to prepare and litigate cases. However, because there are only about 40 cases per year that involve a NGRI plea, these increases are expected to be minimal and can be accommodated within existing appropriations.

Departments Contacted

Corrections	Counties	District Attorneys
Human Services	Judicial	Local Affairs