

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 214 (SB 251 Companion Bill)

SHORT TITLE: Rape/Abolish Spousal Defense

SPONSOR(S): Representative Holt

FISCAL IMPACT:

| | | |
|----------------------------------|---------------------|---------------------|
| Expenditures: | Increase () | Decrease () |
| Revenues: | Increase () | Decrease () |
| No Impact (x) | | |
| No Estimate Available () | | |

FUND AFFECTED:

| | | |
|-------------------------|-------------------------|-----------------------|
| General Fund (x) | Highway Fund () | Local Fund () |
| Other Fund () | | |

BILL SUMMARY: Amends G.S. 14-27.8 as title indicates. Provides that prosecutions for offenses occurring before the effective date would not be abated by this bill's passage.

EFFECTIVE DATE: Upon ratification.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department, Department of Correction

FISCAL IMPACT

| <u>FY</u> 93-94 | <u>FY</u> 94-95 | <u>FY</u> 95-96 | <u>FY</u> 96-97 | <u>FY</u> 97-98 |
|--------------------------|-----------------|-----------------|-----------------|-----------------|
| EXPENDITURES | | | | |
| RECURRING | 0 | 0 | 0 | 0 |
| NON-RECURRING | | | | |
| REVENUES/RECEIPTS | | | | |
| RECURRING | 0 | 0 | 0 | 0 |
| NON-RECURRING | | | | |

POSITIONS: 0

ASSUMPTIONS AND METHODOLOGY: The Administrative Office of the Courts (AOC) does not believe this bill will have a significant impact on the Judicial Department. This conclusion is based on data on reported marital rapes in North Carolina and on interviews with two district attorneys.

A low incidence of arrests involving marital rape (where the victim was the wife) has been reported by law enforcement as shown in the following chart:

| <u>Year</u> | <u>No. Cases Reported</u> |
|-------------|---------------------------|
| 1988 | 24 |
| 1989 | 17 |
| 1990 | 22 |
| 1991 | 16 |

Domestic violence and substance abuse centers in North Carolina report their statistics to the North Carolina Council for Women. This data indicates that the cases of marital rape reported to these centers have been decreasing as shown below:

| | <u>Year</u> | <u>No. Cases Reported</u> |
|--|------------------|---------------------------|
| | 1989-90 | 120 |
| | 1990-91 | 111 |
| | 1991-92 | 94 |
| | (July-Dec. 1992) | 38 |

The two district attorneys who were consulted on this by the AOC "did not expect the bill to have a significant impact. The Mecklenburg office reported that within the last 12 months, they had not seen more than one or two cases in which the defendant and the victim were married. The district attorney there felt that even if the defendant could be prosecuted in such cases, a conviction would be very difficult to obtain because of lack of corroborating evidence. A Wake County assistant district attorney said that in seven years, in which he had prosecuted nearly 100 rape and sexual offense cases, he had seen only two in which the parties were married. He was of the opinion that the victim would not want to come forward in these cases."

The AOC notes that it is not possible to know "how many cases are screened out and never reach the district attorney's offices due to the existence of the current spousal defense. Women may not be reporting the offenses and police departments may not be presenting these cases for prosecution. If the spousal defense were deleted, over time, as women became aware that they could prosecute their husband for rape or sexual offense, these charges could increase. However, at the present time, given the low and apparently decreasing incidence of marital rape reported to domestic violence centers, it seems likely that there will be few additional rape charges due to the removal of the spousal defense."

The state of Tennessee has had this law in effect since 1989 and has had no convictions under it.

SOURCES OF DATA: Administrative Office of the Courts, Legislative Staff - Tennessee, North Carolina Council for Women, SBI Reports - Crime in North Carolina

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION

733-4910

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DATE: April 12, 1993



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