

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1067
SHORT TITLE: Prosecutorial Discretion / Capital Sentencing
SPONSOR(S): Representative Ronnie Sutton

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04

Correction

No Fiscal Impact

Judicial

PRINCIPAL DEPARTMENT (S) & PROGRAM (S) AFFECTED: Department of Correction; Judicial Department

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: *TO INCREASE THE STATE'S DISCRETION IN CAPITAL SENTENCING.* Adds new GS 15A-2004 to provide that State shall have discretion at any point in prosecution to seek sentence of life imprisonment, despite availability of evidence that would support submission to jury of one or more aggravating circumstances listed in GS 15A-2000(e). If State elects to seek sentence of life imprisonment before trial, trial or hearing on defendant's plea of guilty shall be conducted as non-capital proceeding, and court, on adjudication of defendant's guilt of first-degree murder, shall impose sentence of life imprisonment. If State elects to seek sentence of life imprisonment following adjudication of guilt or on remand of case for capital resentencing, court shall impose sentence of life imprisonment.

ASSUMPTIONS AND METHODOLOGY:

Judicial Department

This bill allows district attorneys the discretion to seek a sentence of life imprisonment even where they are aggravating circumstances that could justify a jury decision that death penalty should be imposed. Under current law, district attorneys do not have such discretion and must proceed with a first degree murder case where there are aggravating circumstances.

To the extent that prosecutors exercise this discretion, there could be a significant cost savings in some capital cases. Capital cases are much more costly than non-capital cases in several areas, including jury selection, the

need to appoint two attorneys, trial preparation and presentation of evidence, the need for jury sentencing, and the need for costly appeals.

The AOC is unable to predict whether, how often, or at what stage of the case district attorneys might exercise this discretion. The extent at which they do use it would result in savings for prosecution, defense, and court time. The largest fiscal impact would be potential savings in the Indigent Defense Fund which provides money to attorneys who legal representation to indigent criminal defendants.

Department of Correction

There is no impact on prison admissions due to this bill, therefore, no fiscal impact is anticipated for the Department of Correction at this time.

SOURCES OF DATA: Judicial Department; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: Depending upon how often district attorneys use this discretion, the bill's long-term impact may include a decrease in the number of inmates on death row (which results in less executions) and a slight increase in the number of inmates serving life sentences. This potential impact would not be realized for at least 10 to 15 years.

FISCAL RESEARCH DIVISION 733-4910

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