

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1115

SHORT TITLE: Sex Exploitation Act

SPONSOR(S): Rep. Hackney

FISCAL IMPACT: Expenditures: Increase () Decrease ()
 Revenues: Increase () Decrease ()
 No Impact (x)
 No Estimate Available ()

FUNDS AFFECTED: General Fund () Highway Fund () Local Fund ()
 Other Fund ()

BILL SUMMARY: GS. CH. 90, Art. 1E. Provides that any client of a psychotherapist who is sexually exploited by the therapist has a civil cause of action if the exploitation occurred while the client was being treated by the therapist, or within five years thereafter, or by means of therapeutic deception (meaning, representation by the therapist that sexual contract with the therapist is part of the treatment). Provides for actual or nominal damages and, in aggravated cases, punitive damages. Allows plaintiff to recover attorney fees. Protects plaintiff's sexual history from discovery unless plaintiff claims impairment of sexual functioning or defendant proves relevance of the evidence in pre-discovery hearing and shows that probative value of the history outweighs its prejudicial effect. Restricts introduction of evidence of sexual history under similar conditions, and provides that sexual history that is admissible may not be proved by reputation or opinion. Prohibits as a defense: consent of plaintiff, fact that sexual contact took place outside therapy session, or fact that contact took place off premises regularly used for therapy. Sets four-year statute of limitations for such actions, and specifies that cause of action accrues at the later of (a) the last act giving rise to the cause, or (b) when client discovers injury, but in no event later than 15 years from last act giving rise to the cause. Provides that statute of limitations is tolled during time that client is unable to bring action due to threats, instructions, or statements from the therapist. Prohibits any person from settling or compromising a claim of sexual exploitation in return for promise not to pursue a complaint before occupational licensing board.

EFFECTIVE DATE: October 1, 1993

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department

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	0
NON-RECURRING					
REVENUES/RECEIPTS					
RECURRING	0	0	0	0	0
NON-RECURRING					

POSITIONS: 0

ASSUMPTIONS AND METHODOLOGY:

The AOC does not anticipate that this bill would have a substantial fiscal impact on the Judicial Branch, though it does predict that there would be some additional civil case filings resulting from this bill.

Although a substantial fiscal impact is not predicted on the Judicial Branch due to this individual bill, it should be noted that, at some point, the cumulative additional workload from bills that impact on the courts cannot simply be absorbed and additional resources will be required.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: Carolyn H. Wyland

APPROVED BY: Tom Covington **TomC**

DATE: April 28, 1993

[FRD#003]



Signed Copy Located in the NCGA Principal Clerk's Offices