

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 362

SHORT TITLE: NO DEATH PENALTY/MENTALLY RETARDED

SPONSOR(S): REPRESENTATIVE FITCH

FISCAL IMPACT:	Expenditures:	Increase ()	Decrease ()
	Revenues:	Increase ()	Decrease ()
	No Impact (X)		

BILL SUMMARY: "TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED OF FIRST DEGREE MURDER SHALL NOT BE SENTENCED TO DEATH." Adds new G.S. 15A-2004 prohibiting the death sentence for a defendant convicted of first degree murder who is mentally retarded (defined as pertaining to one who has exhibited "significantly subaverage intellectual functioning" {IQ of 70 or below} before age 18). Places the burden of production and persuasion on the defendant to demonstrate, upon motion prior to trial, mental retardation by a preponderance of the evidence. Specifies that no restriction is placed on the application of any other sentence authorized by law on a mentally retarded offender convicted of first degree murder.

EFFECTIVE DATE: December 1, 1995; applies to trials "begun on or after that date."

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

FISCAL IMPACT

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>FY</u> 99-00			

EXPENDITURES
NON-RECURRING

RECURRING NO FISCAL IMPACT

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

The Administrative Office of the Courts assumes that the proposed legislation would only apply to new trials, and would not apply to persons already on death row.

The Administrative Office of the Courts predicts that in most, if not all cases, there would be additional pretrial hearings brought to determine whether a defendant is mentally retarded. However, the Administrative Office of the Courts also expects that there would be some cases involving mentally retarded defendants that would be tried capitally under present law, that would not be tried capitally under the proposed legislation. Since the cost of a capital trial greatly exceeds the costs of a noncapital trial, the additional costs for additional pretrial hearings would be offset by some savings from having fewer capital trials.

Thus, the Administrative Office of the Courts does not anticipate that the proposed legislation would have a substantial impact on the Judicial Branch.

ASSUMPTIONS AND METHODOLOGY: Department of Correction

It is not anticipated that there would be a fiscal impact on the Department of Correction as an inmate sentenced to life, or death, would spend at least five years, the period covered by this fiscal note, in maximum security confinement.

SOURCES OF DATA: Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION (733-4910)

PREPARED BY: Whitney A. Obrig
Carolyn Wyland

APPROVED BY: Tom Covington **TomC**

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[FRD#003]



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