

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 127

SHORT TITLE: Domestic Abuse Disabled/Elder Adults

SPONSOR(S): Senator Cochrane

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

BILL SUMMARY: "TO IMPOSE CRIMINAL PENALTIES FOR THE ABUSE, NEGLECT, OR EXPLOITATION OF DISABLED OR ELDER ADULTS LIVING IN A DOMESTIC SETTING." Identical to H 96, introduced 2/2/95. Adds new GS 14-32.3 making it unlawful for a caretaker to intentionally abuse a disabled or elder adult residing in a domestic setting, when the abuse causes physical injury or mental anguish, deterioration of a pre-existing mental or physical condition, or results in unreasonable confinement. Specifies that unless some other law provides for a greater penalty, such abuse resulting in unreasonable confinement is a Class F felony and any other form of such abuse is a Class C felony. Makes it unlawful for a caretaker of a disabled or elder adult residing in a domestic setting to engage in culpably negligent conduct that proximately causes physical or mental injury, deterioration of pre-existing mental or physical condition, or endangers the life of the adult. Specifies that unless some other law provides for a greater penalty, such neglect resulting in physical or mental or physical condition is a Class E felony and such neglect causing the adult's life to be endangered is a Class H felony. Creates offense of exploiting a disabled or elder adult residing in a domestic setting when the exploitation is the result of an illegal or improper use of the disabled or elder adult or the adult's resources - a Class G felony where resources in excess of \$1,000 are involved. Defines relevant terms. Provides that any defense arising under G.S. 90-321(h) or 90-322(d) (dealing with right to a natural death) is fully applicable to any prosecution under the new section. Provisions of the section do not supersede any other statutory or common law offenses. The section is not to be construed to impose criminal liability on a person who makes a good faith effort to provide for the health and personal care of a disabled or elder adult, but through no fault of his or her own has been unable to provide such care.

AMENDMENTS/COMMITTEE SUBSTITUTES- MAY 4, 1995- DAILY BULLETIN #58
Intro. 2/1/95. Senate committee substitute replaces 1st edition.
Completely rewrites the original bill. The bill now defines three
new criminal offenses: abuse of disabled elder adult, neglect of
disabled or elder adult, and exploitation of disabled or elder
adult. Elements of these offenses and punishment classes are as
follows.

Abuse. Caretaker of disabled/elder adult residing in domestic
setting is guilty of abuse if the caretaker with malice
aforethought, knowingly, and willfully

- (1) assaults,
- (2) fails to provide medical or hygienic care, or
- (3) confines or restrains the disabled or elder adult in
place or under condition that is cruel or unsafe and as
result of such acts disabled/elder adult suffers mental
or physical injury. Violation is Class F felony if
disabled/elder adult suffers serious injury; if injury is
not serious, violation is Class H felony. Compliance by
caretaker with Right to Natural Death Act does not
constitute violation.

Neglect. Caretaker of disabled/elder adult residing in domestic
setting is guilty of neglect if caretaker wantonly, recklessly or
with gross carelessness.

- (1) fails to provide medical or hygienic care, or
- (2) confines or restrains the disabled or elder adult in
place or under condition that is cruel or unsafe and as
result of such acts disabled/elder adult suffers mental
or physical injury. Violations is Class G felony if
disabled/elder adult suffers serious injury; if injury is
not serious, violation is Class I felony.

Exploitation. Caretaker of disabled/elder adult residing in
domestic setting is guilty of exploitation if caretaker knowingly,
willfully, and with intent to permanently deprive owner of
property or money

- (1) makes false representation,
- (2) abuses position of trust or fiduciary duty, or
- (3) coerces, commands, or threatens and as result
disabled/elder adult gives or loses possession and
control of money or property. Violation is Class H
felony if property has value of more than \$2,000;
otherwise, violation is Class 1 misdemeanor.

Contains definition of key terms.

AMENDMENTS/COMMITTEE SUBSTITUTES- June 7, 1995- Daily Bulletin #77
Intro. 2/2/95. House committee substitute replaces 2nd edition.
Reduces from \$2,000 to \$1,000 the threshold value of money or
property for purposes of determining whether the exploitation of a
disabled or elder adult is a Class H or Class I felony.

EFFECTIVE DATE: December 1, 1995; applies to offenses committed on or after that date.

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

FISCAL IMPACT

FY 95-96 FY 96-97 FY 97-98 FY 98-99
FY99-00

EXPENDITURES

RECURRING NO FISCAL IMPACT

NON-RECURRING

ASSUMPTIONS AND METHODOLOGY:

The proposed legislation defines three new criminal offenses: abuse of disabled or elder adults, neglect of disabled or elder adults, and exploitation of disabled or elder adults.

According to figures obtained from DSS Adult Protective Services, it seems likely that only a few additional cases would be prosecuted under the proposed bill (House Committee Substitute Favorable 6/7/95). Thus, the Administrative Office of the Courts and the North Carolina Sentencing and Policy Advisory Commission would not expect the proposed bill to have a substantial fiscal impact on either the Judicial Branch or the Department of Correction at this time.

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

TECHNICAL CONSIDERATIONS: None

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DATE: June 12, 1995

[FRD#003]



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