

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1074

SHORT TITLE: Extremely Serious Assault/Felony

SPONSOR(S): Senator Rand

FISCAL IMPACT: **Expenditures:** **Increase** (X) - JUDICIAL
BRANCH

No Impact (X) - DEPARTMENT OF CORRECTION

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

BILL SUMMARY: "TO PUNISH AS A FELONY AN ASSAULT COMMITTED WITH INTENT TO KILL OR INFLICT EXTREMELY SERIOUS INJURY AND AN ASSAULT INFLICTING EXTREMELY SERIOUS INJURY. Adds new G.S. 14-32.3 classifying as Class H felonies:

- (1) assault that results in extremely serious injury and
- (2) assault with intent to kill or intent to inflict extremely serious injury that results in serious injury. Defines extremely serious injury as injury resulting in permanent physical or mental handicap or disability or resulting in protracted hospitalization.

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

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

FISCAL IMPACT: JUDICIAL BRANCH

	INDIGENT DEFENSE TOTAL	OTHER STATE FUNDS	
12/1/95-6/30/96	\$28,504	\$ 59,680	\$
88,184			
FY 96/97	\$52,551	\$104,112	
	\$156,663		
FY 97/98	\$56,229	\$107,236	
	\$163,465		
FY 98/99	\$60,166	\$110,453	
	\$170,619		
FY 99/00	\$64,377	\$113,766	
	\$178,143		

ASSUMPTIONS AND METHODOLOGY: JUDICIAL BRANCH

Under the proposed legislation, defendants who commit an assault that results in extremely serious injury or an assault with intent to kill or intent to inflict serious injury that results in serious injury can be charged with Class H felonies.

District Attorneys were surveyed to obtain an estimate of the proportion of defendants who could be charged with Class H felonies under the proposed legislation. Their estimates are as follows:

	Statute	Percent
Eligible		
G.S. 14-33(b)(1)	Assault inflicting serious injury	5%
G.S. 14-33(b)(2)	Assault on a female	3%
G.S. 14-33(b)(3)	Assault on child under 12	2%
G.S. 13-33(b)(8)	Assault on governmental official	1%
G.S. 14-33(b)(9)	Assault on sports official	0.2%

These percentages estimates were multiplied by the estimated number of defendants charged with each of these offenses in 1994 to produce the following estimates of additional defendants eligible for Class H felony charges under the proposed legislation:

- 1) Assault inflicting serious injury - 5% of 3,514 or 176 additional felony defendants;
- 2) Assault on a female - 3% of 29,144, or 876 additional felony defendants;
- 3) Assault on child under 12 - 2% of 971, or 19 additional felony defendants;
- 4) Assault on governmental official - 1% of 4,408, or 44 additional felony defendants; and
- 5) Assault on sports official - 0.2% of 39, or 0 additional felony defendants.

These figures add upto 1,113 additional defendants. These defendants, who under current law would have their cases disposed as misdemeanors at the district court level, could be charged with Class H felonies (with disposition in superior court) under the proposed legislation. The Administrative Office of the Courts predicts there would be an increase in costs as a result of the proposed legislation for the following reasons:

- (1) Felony cases are heard in superior court and superior court cases are more expensive than district court cases;
- (2) and a portion of these new felony defendants will want a jury trial, which increases disposition costs.

The district attorneys surveyed estimated that 25% of the 1,113 defendants would have their cases disposed in district court, either by plea to a reduced charge or by dismissal, and 835 would have their cases disposed in superior court. Of the 835 cases which would be disposed in superior court, District attorneys estimated that 44% of these defendants would have already been in superior court on other charges, leaving an estimated 468 new felony defendants in superior court. These 468 additional defendants would have the following fiscal impact on the Judicial Branch.

Trial Costs: Of these 468 defendants, district attorneys estimated that 8%, or 37, would have their cases disposed by jury trial, with each trial requiring approximately 1 1/3 days. The costs of each trial would be approximately \$1,800. The Administrative Office of the Courts estimates that 70% of these defendants would be indigent, with 25% represented by the public defender (at an average of \$317 per trial) and 75% by assigned counsel (at an average of \$600 per case). At current rates, these 37 trials would cost an estimated \$66,600 in court time and \$13,619 for indigent defense.

Non-Trial Costs: For the new felony cases that would be disposed without trial, the Administrative Office of the Courts estimates an average of 1/2 hour of court time each, at a cost of \$80 per disposition. For these 431 defendants (468 - 37), court time costs are estimated to be \$34,480, and indigent defense costs are estimated to be \$35,494, with assigned counsel receiving an average of \$150 per case.

Total Costs: The above costs are adjusted for FY 95/96 to reflect the effective legislation date of December 1, 1995. For the years following FY 95/96, the costs figures reflect a 7% annual increase in indigent defense costs and an annual 3% increase in other state costs.

ASSUMPTIONS AND METHODOLOGY: DEPARTMENT OF CORRECTION

The North Carolina Sentencing and Policy Advisory Commission does not anticipate the proposed legislation would have a substantial fiscal impact on the Department of Correction at this time.

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

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[FRD#003]



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