

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1235

SHORT TITLE: Clerks/Year's Allowance

SPONSOR(S): Senators, Odom, Ballantine, Gulley and Rand

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

FUND AFFECTED: General Fund (X) Highway Fund () Local Govt. ()
 Other Funds ()

BILL SUMMARY: Amends GS 30-16 and GS 30-17 to authorize clerks to allocate a year's allowance from a decedent's estate to the decedent's spouse and children. Makes conforming amendments to GS 30-19 (value of property ascertained), GS 30-20 (procedure to assignment), GS 30-21 (report), GS 30-23 (right of appeal). Amends GS 30-24 to provide that issues raised on appeal must be decided de novo. Amends GS 7A-307(b1) to direct clerk to assess a fee of \$4 for hearing petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate.

EFFECTIVE DATE: Applications for year's allowance filed on or after October 1, 1996.

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

FISCAL IMPACT

	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>
	1996-97	1997-98	1998-99	1999-00	2000-01
EXPENDITURES		No	Impact		
REVENUES		No	Estimate	Available	

POSITIONS: None

ASSUMPTIONS AND METHODOLOGY: The AOC does not record information on the frequency with which applications are made to magistrates for allocation of a year's allowance for a spouse or children. Without this information, the amount of revenue generated from a new \$4 fee cannot be determined. However, several factors indicate that there should be little or no fiscal impact on expenditures.

The bill would authorize clerks to make the allocation of the estate allowances themselves, rather than having to assign the application to a magistrate. However, pursuant to G.S. 30-20, as amended, whether to refer the matter to a magistrate or to decide the matter oneself would be in the discretion of the clerk. Therefore, under this bill, clerks will have control over the degree to which this bill adds to their workload. Further, AOC's discussions with clerks indicated that performing this responsibility is generally not a complicated or time-consuming task and that, in some instances, clerks are already performing this task and then obtaining a magistrate's signature. Lastly, the task of allocating allowances from estates is already being performed – this bill does not create new work it just allows work to be performed by either the magistrate or the clerk.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: NOTE: Section titles shown on Page 1, Line 6 (for GS 30-16) and Page 3, Line 7 (for GS 30-21) should be reviewed to determine whether these titles should be amended to include clerk of court (i.e., G.S. 30-16 -- "Duty of personal representative, magistrate, or clerk of court to assign allowance" and G.S.30-21 – "Report of magistrate or clerk of court".)

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: Jim Mills

APPROVED BY: Tom L. Covington /s/TomC

DATE: June 18, 1996



Signed Copy Located in the NCGA Principal Clerk's Offices