

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 628

SHORT TITLE: Domestic Violence Order/Misdemeanor

SPONSOR(S): Senator Miller

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available (X)		
	(in millions)				
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
GENERAL FUND					
Correction					No Estimate Available, Impact Unlikely
Judicial					No Estimate Available, Impact Likely
TOTAL EXPENDITURES	_____	_____	_____	_____	_____
County Jails					No Estimate Available, Slight Impact Possible
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 1997 and applies to offenses on or after that date.					

BILL SUMMARY: *TO IMPOSE A CRIMINAL PENALTY FOR VIOLATION OF A DOMESTIC VIOLENCE PROTECTIVE ORDER.* Adds new GS 50B-4A making it a class A1 misdemeanor to violate a valid protective order entered pursuant to GS Ch. 50B.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

Under current law, if a protective order is violated, a show cause hearing may be held in either civil or criminal court. If a person violates an order, the party that requested the order can ask for a hearing and the violator may be found in civil or criminal contempt. In addition, the violator may be arrested if the officer has probable cause to believe the order has been violated. In this case they are brought to District Court and may be found in civil or criminal contempt. This bill would make violation a Class A1 Misdemeanor. Class A1 misdemeanors cases are heard in Criminal Court and offenders are eligible for community/intermediate/active punishment ranging from 1-60 days to 1-150 days depending on prior records.

AOC is unable to predict the number of new charges that will be brought due to violation of protective orders. A very rough estimate (based on a sample of 11 counties for a half year) is that there will be 8,507 protective orders issues in 1996-7, *not* taking into account the broader definition in Section 1. However, it is not known what percentage of these orders are likely to be violated.

The possible impact of this section involves 3 factors. Because a charge of A1 Misdemeanor carries a stiffer penalty than a charge of contempt, offenders may mount more vigorous defense and may request appointment of an attorney. There is no requirement for appointing an attorney for the civil contempt cases that occur now. In addition, cases are being shifted from civil court to criminal courts. Finally, some violations of protective orders involve civil issues such as child support and these civil matters would be shifted to the criminal court docket. This does not necessarily impose additional cost but may slow disposition of other criminal cases in the system.

Department of Correction

Because the Judicial Branch is unable to predict the number of new Misdemeanor A1 cases due to this bill, the Sentencing Commission is unable to project the impact on county jails. Because most A1 sentences are less than 90 days and are not necessarily active sentences, there is unlikely to be any impact on the prison population.

SOURCES OF DATA: Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: Senate Bill 628 is identical to section 3 of HB 929 (2nd), which passed the House April 29, 1997.

FISCAL RESEARCH DIVISION

733-4910

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DATE: May 9, 1997



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