

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 448 1st Edition Criminal Impersonation

SHORT TITLE: Criminal Impersonation

SPONSOR(S): Sen. Luther Jordan

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04

REVENUES

EXPENDITURES

No fiscal impact.

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch, Department of Correction

EFFECTIVE DATE: December 1, 1999

BILL SUMMARY:

CRIMINAL IMPERSONATION. TO CREATE THE CRIME OF CRIMINAL IMPERSONATION TO PUNISH PEOPLE WHO FALSELY IMPERSONATE OTHERS AND HARM THE ADMINISTRATION OF JUSTICE OR DEFRAUD OTHERS. Adds new GS 12-221.3 to make criminal impersonation a Class I felony. Defines criminal impersonation as knowingly assuming a false or fictitious identity or capacity, and in that identity or capacity (1) committing an act that if done by the person falsely impersonated might subject the person to a legal action or liability, forfeiture, or fine, or (2) committing an act with the intent to unlawfully gain a benefit for the person or another or to injure or defraud another. Effective Dec. 1, 1999 for offenses committed on or after that date.

Source: Institute of Government, Daily Bulletin, March 22, 1999.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

Under SB 448, a new Class I felony is created for assuming a false or fictitious identity and then committing an act that would subject the victim of criminal impersonation to “a trial, legal action, special proceeding, civil or criminal hearing, including a hearing for an infraction” or a “liability, charge, punishment, forfeiture, fine, or penalty”. The Fiscal Research Division believes there could be an impact on Judicial System workload from this bill because of the broad range of potential activities that could be performed by a person assuming a false or fictitious identity. If SB 448 results in a higher charge for these instances, defendants would likely mount a more rigorous defense affecting court resources. In addition, the crime of criminal impersonation would occur when the person with the false or fictitious identity commits an act with the intent to unlawfully gain a benefit or to injure or defraud another person.

Some of these instances might be covered under existing law G.S. 14-100 . This establishes a Class H penalty for obtaining or attempting to obtain property by false pretenses (Class C if \$100,000 or more). In 1998, there were 6,311 defendants charged with obtaining property by false pretenses. In these cases, SB 448 would have no impact on the court system because a higher penalty is already authorized

However, there are also many misdemeanor crimes involving defendants using an alias that could rise to a Class I Felony under SB 448. For example, presenting another’s license or permit as one’s own is a Class 2 misdemeanor. During 1998, there were 193 defendants charged with this offense. Under SB 448 the defendant could face the higher Class I penalty.

Although there may be an increase in court workload due to SB 448, the Fiscal Research Division believes the impact can be absorbed within existing resources.

Department of Correction

According to the Sentencing Commission, there is not a significant impact on the prison population. Although no historical data exists for the new offense, the creation of a new Class I felony offense is limited in active sentencing. Only half of the cells in the structured sentencing grid provide for an active sentence. If there were 35 convictions for the new offense, approximately two offenders would receive an active sentence of 5.5 months and result in approximately one additional full time equivalent inmate the first year. By the second year, new convictions and probation revocations would produce six. This assumes that active sentences and probation revocations for the new offense would mirror all other Class I offenders.

The Fiscal Research Division believes that the anticipated minimal fiscal impact could be absorbed with existing resources. There is no direct fiscal impact resulting from the passage of this bill because these additional beds and their associated costs can be absorbed within the Department of Correction’s existing bed capacity.

TECHNICAL CONSIDERATIONS: House Bill 1279, Financial Identity Fraud, has passed both the House and Senate in different versions. Both versions establish a **Class H** felony penalty for obtaining identifying information on another individual for the purposes of financial or credit transactions or of avoiding legal consequences. There is considerable overlap between the impact of HB 1279 and SB 448. In these areas, SB 448 would have no impact because a higher penalty will have already been set by HB1279.

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