

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1468 (3rd Edition)

SHORT TITLE: Certain Weapons of Mass Destruction

SPONSOR(S): Representative Baddour

FISCAL IMPACT

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

FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05 FY 2005-06

REVENUES

EXPENDITURES

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Administrative Office of the Courts; Department of Correction

EFFECTIVE DATE: Act becomes effective when it becomes law and applies to all offenses committed on or after that date.

BILL SUMMARY: 1st Edition: To provide criminal penalties for: (1) the manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of nuclear, biological, or chemical weapons of mass destruction; (2) the use or attempted use of nuclear, biological, or chemical weapons of mass destruction; (3) the false reporting of a nuclear, biological, or chemical weapon of mass destruction; and (4) the perpetration of a hoax by the use of a false nuclear, biological, or chemical weapon of mass destruction. Provides, also, that murder by means of a nuclear, biological, or chemical weapon of mass destruction is first-degree murder. Act becomes effective when it becomes law.

2nd Edition: Creates four exceptions to prohibitions relating to manufacture, assembly, possession, storage, transportation, sale, purchase, delivery and acquisition of nuclear, biological and chemical weapons: (1) law enforcement and other officers while lawfully carrying out their duties; (2) persons under contract with an agency of the State of North Carolina or the United States government with respect to lawful activities under the contract; (3) researchers working on weapons intended for use in a manner consistent with state and federal law; and (4) researchers working on biological, chemical or radioactive agents for peaceful purposes. Revises definitions of prohibited weapons, as well as devices.

Adds potential remedy of restitution for both the crimes of false reporting and perpetrating a hoax regarding prohibited weapons. Removes radioactive material from the existing definition of “weapon of mass destruction.” Clarifies that effective date is for offenses committed on or after the date the act becomes law, and that prosecutions for offenses occurring before the effective date are not affected by the act.

3rd Edition: Modifies the exceptions for unlawful manufacture, assembly, etc. created in the 2nd edition by deleting the exception for certain inventors, designers and others lawfully engaged in activities designed to develop weapons of mass destruction in a manner consistent with federal and state law. Modifies the exception for certain persons under contract with the state or federal governments to make it apply to certain persons under contract with or working under the direction of the state or federal governments. Modifies the exception for persons lawfully engaged with “precursors” for peaceful means to apply to “immediate precursors.” Creates a new exception for persons engaged in accepted agricultural, horticultural, or forestry practices; aquatic weed control; or structural pest and rodent control.

ASSUMPTIONS AND METHODOLOGY: The staff of the Administrative Office of the Courts (AOC) is unable to provide data that can be used to project the fiscal impact of the proposal legislation on the judicial system. The fiscal impact cannot be estimated because the proposed offenses do not exist under current law, therefore, AOC staff cannot project the number of defendants who would be charged under the new penalties. However, given the current social environment, the AOC staff does expect an increase in the number of offenses involving nuclear, biological, or chemical weapons of mass destruction, particularly those involving hoaxes or false reports. Because of the seriousness of these charges, the AOC expects these cases to be high profile and extraordinary, perhaps comparable to capital cases in terms of the expense to the court system and to county or state agencies responsible for security.

Since the bill creates new offenses, the North Carolina Sentencing Commission does not have historical data from which to estimate the impact on the prison population. Therefore, it is not known how many offenders might be sentenced under this statute. The offenses specified in the bill would have active sentences, based on FY1999-2000 data, averaging from 6.3 years (Class D); to 23.5 years (Class B1); to life, about 35.6 years (Class A). Class A and B1 felons have a long-term impact on the prison population due to the long sentences imposed, which result in a “stacking” effect. If there are a large number of convictions, there could be substantial short and long-term impact on the prison population due to the build-up of convictions over the years.

FISCAL RESEARCH DIVISION 733-4910

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