NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)

BILL NUMBER: SB 145 1st Edition

SHORT TITLE: Physician-Assisted Suicide

SPONSOR(S): Senator Forrester

FISCAL IMPACT

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

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
GENERAL FUND					
Correction					
Recurring	Unable to determine exact amount.				
Nonrecurring					
Judicial					
Recurring	Unable to determine exact amount.				
Nonrecurring					
TOTAL EXPENDITURES:	Unable to determine exact amount.				
ADDITIONAL PRISON BEDS*	Unable to determine exact number of beds.				
POSITIONS: (cumulative)	Unable to determine exact amount.				

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

EFFECTIVE DATE:

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY: SB 145 adds a new section to G.S. 14-17.2 creating a new Class D felony for any licensed health care professional that commits the offense of physician-assisted suicide. Physician assisted suicide is defined as a licensed health care provider's participation in a medical procedure or willful prescription of any substance for the purpose of assisting a patient's suicide, but not including participation in the execution of persons sentenced to death. The bill does provide that it shall not be a violation of the section to carry out advanced directives or living wills or to withhold or withdraw life-sustaining procedures as authorized by state or federal law, or to prescribe medication to or perform procedures on a patient diagnosed with suicidal ideation or for purpose of pain relief, where action may increase risk of death.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced for this offense. Under Structured Sentencing, with the exception of extraordinary mitigation, all Class D offenders are required to receive an active sentence. In FY 2001-2002, the average estimated time served for an offender convicted of a Class D offense was 73.2 months. If, for example, there were one conviction for this offense per year, this bill would result in the need for one additional prison bed the first year and two additional prison beds the second year. In 2001-2002, the statewide average operating cost for one inmate was $62.43/day or $22,786.95 a year.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Data is unavailable regarding the number of licensed health care professionals that might be charged with physician assisted suicide, or how often the proscribed conduct might occur. Currently, the State of Oregon is the only state that permits physician-assisted suicide.[1] Data in the

[1] Administrative Office of the Courts Research and Planning Division

March 2003 issue of The New England Journal of Medicine reveal that doctors wrote 58 prescriptions in 2002 for terminally ill patients who qualified under the Oregon voter-approved law, and of the 58 who received prescriptions, 38 patients committed suicide.[2] If a like number of licensed health care providers committed offenses described under this bill, the impact could be substantial. However, AOC does not anticipate many violations of the proposed statue, although if a few violations do occur, the impact may be significant. For offenses that are brought to trial as Class D felonies, the estimated court cost per trial is $7,969. For Class D felony offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at $375.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS:

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DATE: March 7, 2003

Signed Copy Located in the NCGA Principal Clerk's Offices

[2] The New England Journal of Medicine March 2003.