

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 801

SHORT TITLE: HIV Assault

SPONSOR(S): Representative Justus

FISCAL IMPACT:	Expenditures:	Increase ( )	Decrease ( )
	Revenues:	Increase ( )	Decrease ( )
	No Impact (X)		

**BILL SUMMARY:** "TO CREATE THE CRIMINAL OFFENSE OF HIV ASSAULT." Enacts G.S. 14-32.3 to create crime of HIV assault. A person who knows he is HIV infected commits the crime by engaging in intimate contact with another, transferring or donating blood, semen, or organs to another, or dispensing or exchanging any nonsterile intravenous or intramuscular drug paraphernalia used by that person. It is a defense that the person exposed knew that the infected person was infected and consented to the action with that knowledge. Conviction is a Class C felony and requires an active prison term of 60 months.

**EFFECTIVE DATE:** December 1, 1995, and applies to offenses committed on or after that date.

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

FISCAL IMPACT

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>FY</u> 99-00			

EXPENDITURES

RECURRING

NON-RECURRING

NO FISCAL IMPACT

POSITIONS:

ASSUMPTIONS AND METHODOLOGY:

The Administrative Office of the Courts does not anticipate that the proposed legislation would have a substantial fiscal impact on the Judicial Branch.

The Administrative Office of the Courts predicts that there would be few new felony filings, based on the following considerations.

1. The proposed legislation's application to persons who know they are infected with HIV means that the population of potential offenders is limited.
2. The current Public Health Law of North Carolina, Chapter 130A of the General Statutes, and the rules prescribed by the Commission for Health Services contain control measures for persons infected with HIV (see G.S. 130A-144 and 15A NACRE 19A .0202). These control measures address the activities listed in the proposed bill (intimate contact with another, donation or transfer of body parts of body fluids for administration to another, and transfer of intravenous or intramuscular drug paraphernalia that the infected person has used). A person not following the control measures is guilty of a misdemeanor, and can be imprisoned for up to two years.
3. When nonconsensual sex offenses are involved, offenders can already be prosecuted as felons.
4. If drug use were involved, an HIV assault may not be a new case, but rather an additional charge.
5. Finally, the proposed bill contains stiff penalties for violations (imprisonment for up to ten years, with a mandatory minimum of five years that is not subject to suspension or probation, nor to early parole or early release, a fine of up to \$20,000 or both). Together, the penalty and the HIV control measures already in place would likely serve as substantial deterrents.

Considering all these factors, the Administrative Office of the Courts does not expect a substantial number of new defendants in such cases.

**ASSUMPTIONS AND METHODOLOGY:** Department of Correction

The North Carolina Sentencing and Policy Advisory Commission assumes, based on data provided by the Administrative Office of the Courts, that the number of cases affected by the proposed bill would be small. Thus, it is not anticipated that the proposed legislation would have a significant fiscal impact on the Department of Correction.

**SOURCES OF DATA:** Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION (733-4910)**

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