

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 478 (with proposed House amendment)

SHORT TITLE: Threaten Court Officers

SPONSOR(S): Reps. Jarrell and Barefoot

FISCAL IMPACT

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

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

REVENUES

EXPENDITURES

Judicial Branch Minimal impact but no estimate available.
General Fund
Indigent Persons Attorney Fee Fund

Department of Correction Minimal impact would be absorbed within existing resources.
No estimate available.

Department of Justice
State Bureau of Investigation Minimal impact but no estimate available.

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch, Department of Correction, and Department of Justice (State Bureau of Investigation)

EFFECTIVE DATE: December 1, 1999 and applies to offenses committed on or after that date.

BILL SUMMARY:

TO CREATE THE CRIMINAL OFFENSE OF THREATENING JUDGES, DISTRICT ATTORNEYS, AND OTHER COURT OFFICERS. Adds "court officer" to GS 14-16.6 (now applicable only to executive and legislative officers) to make an assault against officer a Class I felony and an assault with a deadly weapon or inflicting serious injury a Class F felony. Adds "court officer" to GS 14-16.7 (now applicable only to executive and legislative officers) to (1) make threat to inflict serious bodily injury or to kill officer a Class I felony; and (2) make deposit for conveyance in mail any letter or other document threatening to inflict serious bodily injury or

to kill officer a Class I felony. Defines “court officer” as magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by district attorney to act for state or on behalf of district attorney. Amends GS 114-15(a) to include new crimes within investigative authority of State Bureau of Investigation. Applicable to offenses committed on or after Dec. 1, 1999.

Source: Institute of Government, Daily Bulletin, March 17, 1999.

The committee amendment expands the definition of court officers to include public defenders or assistant defenders and any attorney licensed to practice in the General Court of Justice. A technical amendment was included that corrects 14-16.10 (3) to “Legislative” instead of “Executive” which is already mentioned in (2).

The House amendment limits the inclusion of assaults or threats on court attorneys and other judicial court officers to when the assault or threat is in a building where judicial functions are exercised or while in the exercise of that attorney’s judicial duties.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Fiscal Research Division believes that the bill may have some fiscal impact on the courts due to the increased penalty for assaults or threats on a potentially large population of attorneys to which it may apply. The bulk of the potential impact results from a higher charge possibly causing more defendants to want a more rigorous defense.

Currently, assaults on judicial court officers (assaults against a government official) are charged as a Class A1 misdemeanor and assaults on attorneys (that are not government officials) are charged as a Class 2 misdemeanor. Both categories would be charged as a Class I felony under the bill. Attacks on the residence, office, temporary accommodation or means of transport of a judicial court officer are currently charged as a Class 1 or Class 2 misdemeanor depending upon the amount of damage involved but would be charged as a Class I felony. If the assault of a judicial court officer results in serious bodily injury or if a deadly weapon is used, it is charged as a Class F felony which is the same as current law when the deadly weapon is used against a government official. Threatening a judicial court officer with serious bodily injury or death is currently charged as a Class 1 misdemeanor but would be charged as a Class I felony under the bill.

The AOC and the Fiscal Research Division believe the impact from the addition of judicial court officers other than private licensed attorneys to be minimal due to the small number of cases anticipated. According to AOC records, there were no charges or convictions for the existing offenses against legislative and executive officers under G. S. 14-16.6 or G. S. 14-16.7. The AOC does not have an estimate of the possible number of cases that would be charged with higher penalties for assaults and threats against attorneys exercising their judicial duties.

Department of Correction (DOC)

Because there is no information on the number of possible additional convictions for assault or threats on judicial court officers, the Fiscal Research Division is unable to estimate the impact on the Department of Correction but believes the impact would be minimal. There are currently no convictions for assaults and threats on legislative or executive officers.

If there are 70 defendants charged and convicted of a Class I felony instead of a misdemeanor, and assuming the sentencing for this population would be similar to other Class I offenders, 4 would receive an active sentence of 5.5 months and result in approximately 2 prison beds per year. By the second year probation revocations could result in the need for an additional 12 beds per year for a total of 14 beds.

If some of the offenses were assaults with a deadly weapon on private attorneys (not government officials) receiving a Class F felony instead of a Class A1 misdemeanor, the impact would increase somewhat over the impact of these cases as a Class I felony. If there were 10 convictions for this offense, approximately 5 would receive active sentences of 19.5 months and would result in approximately 5 prison beds in the first year and 8 by the second. During the second year probation revocation would result in the need for an additional 8 beds per year for a total of 16 beds in the second year.

There is no direct fiscal impact resulting from the passage of this bill because any additional beds of this magnitude and their associated costs can be absorbed within the DOC's existing budget. However, even though costs can be absorbed due to available bed capacity, there is a daily cost for each inmate added to the system that will have to be expended in lieu of using available funds for other purposes or reverting these funds. The average cost per day for one inmate was the following in 1997-98:

DAILY INMATE COST

Custody Level	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (97-98)	\$51.27	\$67.44	\$78.64	\$62.41

These costs include security, inmate costs (food medical etc.) and administrative overhead costs for the Department and the Division of Prisons.

NOTE: This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly. Other criminal penalty bill enhancements being considered by the General Assembly reduce the availability of prison beds in future years. The Fiscal Research Division is monitoring the cumulative effect of all criminal penalty bills on the prison system.

Department of Justice, State Bureau of Investigation (SBI)

The SBI would be authorized but not required to investigate assaults and threats on the additional judicial court officers. Last year, the SBI opened 14 cases concerning assault or threats on two assistant district attorneys, one clerk, and eleven judges at the request of district attorneys and law enforcement agencies. The average hours spent per case was 68 with four cases taking only three hours each and the longest case taking 240 hours.

The SBI believes that any fiscal impact of the bill for judicial court officers other than private licensed attorneys could be managed with current resources but investigating assaults and threats on private attorneys may create the need for additional investigative agents.

Because the SBI already investigates assaults and threats on some court officers who are attorneys exercising their judicial duties, the Fiscal Research Division believes any additional cases investigated would have a limited impact. Since we do not know how many cases would be investigated in a year, no estimate is available at this time.

TECHNICAL CONSIDERATIONS: none

FISCAL RESEARCH DIVISION 733-4910

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