

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: House Bill 5 (First Edition)

SHORT TITLE: Equal Justice Act

SPONSOR(S): Representative Miller

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Correction	Unable to determine the precise amount; no significant impact anticipated.				
Judicial	No impact is anticipated.				
ADDITIONAL PRISON BEDS	No estimate is available.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch				
EFFECTIVE DATE:	Upon ratification.				

BILL SUMMARY:

This bill prohibits the Secretary of Correction from setting any date prior to June 1, 2007, for the execution of any person sentenced to death. The bill additionally calls for a study of issues related to the death penalty, including the adequacy of counsel, the process of judicial review, disparity based upon race arising in any aspect of a capital case, prosecutorial misconduct, and the presence of innocent persons on death row.

Source: Adapted from Bill Digest H.B. 5 (01/27/2005).

ASSUMPTIONS AND METHODOLOGY:

Section 1 – Death Penalty Moratorium Until June 1, 2007

Department of Correction

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. Because the number of executions that may be delayed by this bill cannot be predicted, the Sentencing Commission cannot project the precise impact this bill would have on the prison population. However, the Sentencing Commission anticipates that the impact would not

be significant. Of the 181 inmates presently on death row, one is scheduled for execution with a date of March 11, 2005. Across the last decade there have been, on average, 2.4 executions annually, though eight executions were carried out during fiscal year 2003-04.

For any inmate whose execution would be delayed as a result of this bill, the Department of Correction (DOC) would incur the cost of incarcerating that inmate for an additional length of time. Based on actual operating costs for fiscal year 2003-04, the cost of housing an inmate at close custody would be \$31,931 per year. However, this figure includes costs that DOC would not incur if empty beds were available on death row. At this time, there are available beds on death row, thus the actual cost incurred by delaying an execution would be less than \$31,931 per year. Additionally, DOC would save the cost of actually staging an execution in the short term (estimated to be \$16,369). However, this cost would be incurred in later years for any delayed execution that is carried out following the moratorium and therefore would not represent savings in the long run.

Assuming that at least one execution is delayed as a result of this bill, there would be a cost to DOC. While the overall magnitude of the cost for the five-year horizon of this fiscal note cannot be determined, it is not anticipated to be significant.

Judicial Branch

The Administrative Office of the Courts (AOC) does not anticipate any substantial change in the way capital cases would be processed by the Judicial Branch due to this bill. AOC expects that prosecutors would seek the death penalty under circumstances and at a rate similar to that at present. Likewise, no change in other stages of the litigation process, such as the rate of appeal, is anticipated. The only potential exception identified by AOC is the number of “last-minute” appeals that might be filed due only to an imminent date of execution. AOC does not have data on the number of appeals filed under this circumstance but presumes that most of these proceedings are likely to be in federal court or involve a request to the Governor.

Section 2 – Study Issues Regarding the Death Penalty

The directive to study issues surrounding the imposition of the death penalty would entail some cost. However, this cost cannot be estimated because the composition and nature of the body that will conduct the study is unknown.

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

TECHNICAL CONSIDERATIONS: None

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