## NORTH CAROLINA GENERAL ASSEMBLY

## LEGISLATIVE FISCAL NOTE

**BILL NUMBER**: Senate Bill 762

**SHORT TITLE**: Insanity Defense/Burden of Proof

**SPONSOR(S)**: Senator Horton

## FISCAL IMPACT

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

FY 1997-98 FY 1998-99 FY 1999-00 FY 2000-01 FY 2001-02

REVENUES <u>None</u>

**EXPENDITURES No Reliable Estimate Available** 

**POSITIONS:** None.

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch.

**EFFECTIVE DATE**: December 1, 1997.

**BILL SUMMARY: INSANITY DEFENSE/BURDEN OF PROOF.** *TO REQUIRE THAT A CRIMINAL DEFENDANT MUST PROVE THE DEFENSE OF INSANITY BY CLEAR AND CONVINCING EVIDENCE.* Adds new GS 15A-1251 as title indicates. Applies to offenses committed on or after Dec. 1, 1997.<sup>1</sup>

## **ASSUMPTIONS AND METHODOLOGY:**

The Judicial Branch is unable to determine a reliable estimate of cost for this bill. This bill would shift the burden of proving the defense of insanity in a criminal case from the prosecution to the defense. The Judicial Branch does not keep data regarding the number of cases in which the insanity defense is raised. In some cases, this bill may not have a substantial fiscal impact. Without the burden of proof, defendants may raise all possible evidence and litigate the issue as strenuously as possible. However, in other cases, if the defense is give the burden of proof,

<sup>&</sup>lt;sup>1</sup> Daily Bulletin, Institute of Government, UNC-Chapel Hill: Vol. 1997, No. 40.

defendants may seek additional funds for expert witnesses and undertake more rigorous efforts to establish and prove the defense. There may be an increase in costs for expert witnesses, indigent defense, and court time (judges, deputy clerks, and assistant district attorneys). The Judicial Branch is unable to estimate the number of cases that may be affected, or the magnitude of the effect in such cases.

TECHNICAL CONSIDERATIONS: None.

FISCAL RESEARCH DIVISION 733-4910 DATE: May 12, 1997

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Publication

Signed Copy Located in the NCGA Principal Clerk's Offices