

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 140 < 1st Edition >

SHORT TITLE: Racial Justice Act

SPONSOR(S): Sutton, Fitch, Luebke, et.al.

FISCAL IMPACT

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

FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05 FY 2005-06

REVENUES

EXPENDITURES See Assumptions and Methodology

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Justice; Administrative Office of the Courts

EFFECTIVE DATE: Retroactive

BILL SUMMARY: *TO PROVIDE FOR THE FAIR AND RELIABLE IMPOSITION OF CAPITAL SENTENCES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION.* Adds new Art. 101 to GS Ch. 15A to prevent the imposition of the death penalty in cases where a death sentence was sought or obtained on the basis of race. Permits a pretrial finding that race was the basis for seeking a death penalty if the defendant proves by clear and convincing evidence, statistical or otherwise, that death sentences were sought significantly more frequently in the county, the prosecutorial district, or the state at large for crimes by or against one race. Permits a posttrial finding that race was the basis for seeking a death penalty if court finds that race was a significant factor in exercising peremptory challenges. Effective retroactively.

ASSUMPTIONS AND METHODOLOGY: The fiscal impact of HB 140 could not be estimated, as there is no estimate available of the number of hearings that would result from this proposal.

- Because the proposed act is retroactive, Department of Justice (DOJ) staff indicates that each of the 213 individuals awaiting execution as of March 12, 2001 would be entitled to a hearing to determine whether race was a significant factor in decisions to peremptorily excuse jurors in their cases. Administrative Office of the Courts) AOC staff advises, however, that not all of these 213 individuals would be affected by the proposal. AOC could not provide an estimate of how many of these individuals would require a hearing. There would be some costs on both the prosecution (in this case, DOJ) and defense sides in determining which cases to pursue under this option.
- DOJ staff estimates that annually, about 25 individuals would qualify for hearings under the proposal. AOC could provide no estimate but advises that the number could be “very substantial.”
- For those cases that will require a hearing with AOC prosecutors, AOC estimates the following staff hours:

Position	Hourly Cost	# Hours Preparation	# Hours in Court	Total Cost
Indigent Defense Attorney (2)	85.00	80	32	9520
AOC Prosecutor (2)	42.97	80	32	4813
AOC Superior Court Judge	37.50	0	16	600
AOC Deputy Clerk	18.44	0	16	295
AOC Court Reporter	29.08	0	16	465
Total 5 AOC staff		160	112	\$15,693

- For those cases that will require a hearing using DOJ prosecuting attorneys, DOJ estimates the following staff hours:

Position	Hourly Cost	# Hours Preparation	# Hours in Court	Total Cost
DOJ Attorney IV	42.81	40	16	2398
DOJ Attorney II	34.14	40	16	1912
Indigent Defense Attorney (2)	85.00	80	32	9520
AOC Superior Court Judge	37.50	0	16	600
AOC Deputy Clerk	18.44	0	16	295
AOC Court Reporter	29.08	0	16	465

Total 5 DOJ and AOC staff		160	112	\$15,190
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- DOJ advises that there would also be costs associated with travel, expert witnesses, and transcripts. While staff indicated that these costs could be substantial, there was no available data to derive estimates of these costs. DOJ advises that for many of the 213 retroactive cases, attorneys will have to travel to the counties to research the racial/ethnic identities of jurors who served on these cases.

- If the post-trial motions were successful, there would be significant costs associated with the retrial. If pre-trial motions were successful and result in cases proceeding as non-capital, there would be substantial savings involved in avoiding a more expensive capital trial.

FISCAL RESEARCH DIVISION 733-4910

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