

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 884 (3rd Edition)

SHORT TITLE: Innocence Protection Act

SPONSOR(S): Representatives Hackney, Blue, et al.

FISCAL IMPACT

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

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

REVENUES

EXPENDITURES

DOJ, SBI Crime Lab	No fiscal impact
Judicial Branch	No estimate available
Indigent Defense	No estimate available

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Justice, State of Bureau of Investigation, Judicial Branch, Indigent Defense

EFFECTIVE DATE: G.S. 15A-267, as enacted in Section 4 of this act, and Section 5 of this act are effective when it becomes law and apply to persons charged with crimes on or after that date. Section 6 of this act is effective when it becomes law. The remainder of this act becomes effective October 1, 2001, and applies to evidence, records, and samples in the possession of a governmental entity on or after October 1, 2001.

BILL SUMMARY:

(1) Adds GS 15A-146(b1) to provide that a person entitled to expungement under this section may also apply to the court for an order expunging DNA records when the person's case has been dismissed by the trial court and the person's DNA record has been stored in the State Database and the DNA sample has been included in the State Databank. Adds 15A-146(b2) to provide for SBI purging of the DNA record upon receipt of an order of expungement.

(2) Add new GS 15A-148 to require expungement of DNA analysis, record and samples upon the issuance of reversal or dismissal of conviction or granting of a pardon.

(3) Adds GS 15A-267 to provide that a criminal defendant must have access before trial to any DNA analysis performed in connection with the case and any biological material collected that has not been DNA tested that was collected from the crime scene, the defendant's residence, or the defendant's property. It requires, further, the court, in response to defendant's motion, to order SBI to perform forensic DNA testing and DNA database comparisons on any biological material collected that has not been DNA tested in connection with the case in which the defendant is charged upon a showing of certain specified conditions.

(4) Adds new 15A-268 to require a governmental entity that, during a criminal investigation, collects evidence containing DNA to preserve any biological material relating to the case for the period of time the person is incarcerated in connection with that case. Further, the governmental entity may dispose of biological material before incarceration is over only if certain conditions outlined in the section are met.

(5) New GS 15A-269 requires the court, upon a motion by the defendant, to order DNA testing of any biological material related to investigation or prosecution, if material was not tested, or new test would provide results that are more accurate or contradict prior test results.

(6) New GS 15A-270 requires the court to conduct a hearing to determine if the results of any post-conviction DNA testing are favorable or unfavorable to the defendant. If DNA results are favorable to applicant, the court can 1) vacate or set aside the judgment; 2) discharge the defendant if in custody; 3) pre-sentence the defendant; or 4) grant a new trial. Additionally, it provides that if the results are unfavorable, the court may assess applicant costs of testing if applicant is not indigent.

(7) Adds GS 15A-903(g) to provide that a defendant has the right to obtain a copy of DNA lab reports provided to the district attorney revealing that there was a DNA match in accordance with procedure set forth in GS 15A-902.

ASSUMPTIONS AND METHODOLOGY:

Department of Justice, State Bureau of Investigation (SBI) – House Bill 884 enacts several provisions dealing with DNA evidence and the role of the SBI Crime Lab therein. DOJ officials have worked closely with the sponsors and the General Assembly staff attorney to ensure that this bill would create minimal, if not any, fiscal impact on the Crime Lab. Thus, Fiscal Research estimates that any increase in workload from this bill can be absorbed with existing resources.

Administrative Office of the Courts–Various sections of the bill provide for various pre- and post-trial motions, all of which could result in substantial additional workload for the court system. These motions could be costly to the court system, but Fiscal Research and AOC are unable to estimate the number of additional motions as a result of this bill.

Current law (GS 15A-266.4) requires DNA testing for 22 sections of statute that include 36 AOC offense codes. AOC offense code data indicate there were approximately 4,686 defendants convicted in calendar year 2000 under these offense codes. (This number represents the offenses covered by the offense codes, not necessarily all the offenses under the statutes sections listed in G.S. 15A-266.4, if you include all possible subsections and those statute sections for which an offense code does not exist.) Thus, this number illustrates a ceiling number of defendants who were required to supply DNA samples and who, in theory, could file motions under this bill.

The costs of providing representation for indigent defendants as provided for in GS15A-267 and GS 15A-269 could be costly to the court system as well. However, Indigent Defense Services is unable to quantify the potential impact.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910

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