

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1284 (4th Edition)

SHORT TITLE: Openness of Court Records and Proceedings

SPONSOR(S): Rep. Weiss

FISCAL IMPACT

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

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

REVENUES

General Fund

No estimate available

EXPENDITURES

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch

EFFECTIVE DATE: Effective October 1, 2001, and applies to court records filed on or after that date and applies to judicial proceedings commenced or pending on or after that date.

BILL SUMMARY:

This bill amends Article 6 (Parties) of Chapter 1 (Civil Procedure) to add new section G.S. 1-72.1. The new section reads that an applicant asserting a right of access to a judicial proceeding or to a judicial record may move to intervene in that proceeding pursuant to Rule 24(a)(1) for the limited purpose of appearing and being heard on the right of access claim. However, the applicant would not be considered a party to the lawsuit. This amendment does not apply to juvenile proceedings or records. In addition, the bill requires the clerk of superior court to collect a \$20 fee for filing a motion to intervene under G.S. 1-72.1. Proceeds from this fee would go to the General Fund.

Rule 24 of the Rules of Civil Procedure provides for a person to intervene in a civil action, to which the person is not an original party, by intervention of right or by permissive intervention.

The fourth edition provides for the following procedure:

- The applicant may move to intervene in the proceeding for the limited purpose of appearing and being heard on the right of access claim.
- The applicant shall serve notice of its motion on all parties to the proceeding. The court shall announce in open court the date and location of the hearing and also cause notice of the hearing date and location to be posted at the courthouse.
- The court would then conduct an evidentiary hearing and rule on the applicant's motion after the presentation of evidence and consideration of legal authority and argument.
- If the court rules in favor of the applicant, then the applicant would be allowed to intervene for the limited purpose of gaining access to the proceeding and the judicial record. In its order the court would also set out conditions and the scope of access to the proceeding or record.
- If the court rules against the applicant, then the applicant may seek an immediate interlocutory appeal. Pending the appeal, the trial court has discretion to allow the underlying case to proceed as if no application had been filed.

(Source: Bill Analysis, Martha Walston, Research Division)

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

There were 1,368 motions to intervene filed statewide during calendar year 2000, according to AOC data. However, data do not indicate the number of motions that might be filed pursuant to Rule 24(a)(1) for the limited purpose of gaining access to a judicial proceeding or judicial record. [Under Rule 24(a)(1), a person has a right to intervene in an action (upon timely application) when a statute confers an unconditional right to intervene.] Thus, while AOC and Fiscal Research would expect an increase in court workload and in the amount of fees collected due to the \$20 fee under this bill, we are unable to provide an estimate of that impact.

TECHNICAL CONSIDERATIONS: None
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DATE: August 1, 2001



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