

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: House Bill 38 (Second Edition)
SHORT TITLE: Judicial Efficiency/Effect. Admin. of Justice.
SPONSOR(S): Representatives Davis and Burr

| FISCAL IMPACT | | | | | |
|---|---|-----------------------------|--|-------------------|-------------------|
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No Estimate Available | | |
| State Impact | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 |
| General Fund Revenues: | | | | | |
| General Fund Expenditures: | (\$39,658) | | | | |
| State Positions: | | | | | |
| NET STATE IMPACT | \$39,658 | \$0.0 | \$0.0 | \$0.0 | \$0.0 |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The Administrative Office of the Courts; North Carolina General Assembly | | | | | |
| EFFECTIVE DATE: Sections 6 and 7: October 1, 2015. The rest is effective when it becomes law. | | | | | |
| TECHNICAL CONSIDERATIONS: Yes - See Technical Considerations Section | | | | | |

FISCAL SUMMARY:

Fiscal Research Division (FRD) anticipates a cost to the Legislative Services Commission’s Reserve for Study Committees of \$39,658 for the study committee in Section 2. Additionally, FRD anticipates possible costs to the court system from the changes in Section 6, but FRD cannot estimate those costs at this time.

BILL SUMMARY:

Section 1 of this bill amends G.S. 7A-343.1 to require the Administrative Office of the Courts (AOC) to develop a process through which all persons or entities not listed in subsection (a) of the section may purchase copies of the appellate division reports for the actual cost to the state. New subsection (b) allows ongoing recipients to choose to reduce or refuse their allotted copies by notifying the AOC in writing. New subsection (c) requires that the appellate division reports shall be made publically accessible online in a free downloadable format.

Section 2 establishes a Joint Select Study Committee on the Preservation of Biological Evidence (Committee) with 18 members. The bill directs the Committee to review matters related to the preservation of DNA and biological evidence and report to the General Assembly on or before April 1, 2016.

Section 3 requires AOC to study and develop a case management system for superior court civil cases in order to more efficiently utilize superior court time and resources. The study is instructed

to consider allowing exceptional cases to be assigned to a superior court judge to oversee all aspects of the case. AOC shall report on the study and the system by March 1, 2016 to the Joint Legislative Oversight Committee on Justice and Public Safety

Section 4 requires AOC to develop a written, comprehensive policy for the management of IT resources, including specific guidelines for the distribution and maintenance of IT hardware. AOC shall report on this policy to the Joint Legislative Oversight Committee on Information Technology by March 1, 2016.

Section 5 requires AOC to study the current law for the appointment and supervision of magistrates. The study is instructed to consider what person or court official should have the responsibility of supervising the magistrates as well as any changes that should be made to the appointment and supervision process. AOC shall report on the results of the study by March 1, 2016, to the Joint Legislative Oversight Committee on Justice and Public Safety.

Section 6 amends G.S. 7A-38.7 in subsection (a) to require that parties in a criminal case that has been referred to a community mediation center be notified of the associated fee and that this fee shall be paid as part of any mediation that results in dismissal. Subsection (b) is also amended to stipulate that no criminal case shall be dismissed through referral to mediation unless the full fee amount required by subsection (a) is paid within 45 days of the completion of the mediation. If payment has not been made by that deadline the case shall be sent back to the court for deposition. This section has an effective date of October 1, 2015 and applies to criminal cases referred to mediation on or after that date.

Section 7 creates new G.S. 7A-38.4B, Settlement procedures in district court general civil actions, and makes conforming changes to establish a system by which a chief district court judge is allowed to order a mediated settlement conference or another settlement procedure for any district court civil action other than those involving certain family issues. This section has an effective date of October 1, 2015 and applies to actions filed on or after that date.

Other than the effective dates noted above, the sections are effective when this bill becomes law.

ASSUMPTIONS AND METHODOLOGY:

Section 1

AOC already has a mechanism by which persons or entities may purchase copies of the appellate division reports, as directed in G.S. 7A-6(b). The current price of these reports is set by the number of pages to be printed per volume and the total number of volumes to be printed rather than by fixed price. Therefore, AOC may be unable to estimate the actual cost to the State of publication and shipping until all orders have been submitted. The Judicial Branch currently publishes appellate division reports as PDF documents on a public website. Fiscal Research Division (FRD) does not anticipate any impact for compliance with new subsection (c).

Section 2

FRD estimates a total cost of \$39,658 for the study committee. This estimate assumes the committee will meet once per month between August 2015 and March 2016 for a total of eight meetings. Per the bill, the costs shall be paid from the Legislative Services Commission’s Reserve for Study Committees. The estimated per meeting cost is \$4,957. If the study committee meets more often than estimated then the total cost will increase by \$4,957 per additional meeting and if the study committee requires fewer meetings than estimated then the total cost shall decrease by the same amount. The table below shows a breakdown of the estimated costs.

| | |
|--------------------------------------|-----------------|
| Legislative Member’s Subsistence | \$7,488 |
| Non-Legislative Member’s Subsistence | \$15,602 |
| Travel Expenses | \$9,424 |
| Clerical Staff | \$7,144 |
| Total | \$39,658 |

Sections 3, 4, and 5

FRD does not anticipate any significant cost for AOC to comply with these provisions.

Section 6

FRD anticipates possible costs related to this section, but cannot determine the amount at this time. Subsection (b) requires that no case shall be dismissed unless the dispute resolution fee is paid within 45 days. If the fee is not paid, the case shall be remanded back to the court for disposition, which may be problematic for district attorneys. If the district attorney, in his or her discretion, finds that continuing to prosecute the case is not appropriate, but timely payment of the mediation fee has not been made, the language does not appear to provide recourse for the district attorney to dismiss the case. By precluding the case from dismissal for lack of payment and forcing it to continue through the system, this bill could cause AOC to continue to incur costs in each stage.

Section 7

FRD does not anticipate any significant cost for AOC to comply with this provision.

SOURCES OF DATA: Administrative Office of the Courts; Fiscal Research Division

TECHNICAL CONSIDERATIONS:

Section 1

S.L. 2015-40 (H.B. 224), which became effective July 1, 2015, enacts language similar to new subsection (b).

Section 6

AOC is concerned that the requirement in subsection (b) of this section, which could require the continued prosecution of a case, up to and including a possible trial, may amount to a statutory mandate for the district attorney to commit a violation of the Revised Rules of Professional Conduct rule 3.8(a). Additionally, per G.S. 7A-38.3D(m), the criminal mediation fee may be paid by someone other than the defendant. It is possible that if another party is directed to pay the

mediation fee and refuses or declines to pay the fee, the defendant may be forced to trial. The language does not appear to directly address this situation.

AOC suggests that if the statute were to require upfront payment for mediation before the mediation session or sessions occur, this potentially problematic situation could be avoided.

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DATE: August 10, 2015



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