

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: House Bill 173 (Second Edition)

SHORT TITLE: Omnibus Criminal Law Bill.

SPONSOR(S): Representatives Stam, Faircloth, Glazier, and R. Turner

FISCAL IMPACT					
(\$ in thousands)					
	<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:	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
State Positions:					
NET STATE IMPACT	(\$0.0)	(\$0.0)	(\$0.0)	(\$0.0)	(\$0.0)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
The Administrative Office of the Courts					
EFFECTIVE DATE: Section 1 is July 1, 2015. Sections 4, 9, 10, 11, and 14 are October 1, 2015. Section 6 is December 1, 2015.					
TECHNICAL CONSIDERATIONS:					
Yes - See Technical Considerations Section					

FISCAL SUMMARY:

Fiscal Research Division estimates the first-year costs of House Bill 173 to be \$23,064. Sections 1 and 2 will require the Administrative Office of the Courts (AOC) to modify existing computer systems. Because AOC’s Technology Services Division staff is fully engaged with current projects, any additional projects will require additional resources through contracted services. The changes in Section 1 and 2 would require one-time additional funds of \$23,064 for AOC in the first year.

BILL SUMMARY:

Section 1 amends the grace period for two offenses before certain penalties would apply. Section 1.(a) amends G.S. 7A-304 to allow defendants 40 days rather than 20 days before being charged a \$50 late fee in a case where a defendant fails to appear to answer the charge as scheduled. Section 1.(b) amends G.S. 20-24.2 to give a person charged with a motor vehicle offense 40 days rather than 20 days before his or her name is reported to the Division of Motor Vehicles for failure to pay a fine, penalty, or court cost. This section applies to fees assessed on or after July 1, 2015.

Section 2 requires the Administrative Office of the Courts (AOC) to consult with the Conference of Clerks of Superior Court (Conference of Clerks) and make any necessary modifications to its information systems in order to maintain records of all cases in which the defendant in a criminal case withdraws an appeal for trial de novo in superior court and the superior court judge has signed an order remanding the case to the district court. Section 2 requires AOC to report on remanded cases.

Section 3 addresses additional powers of magistrates. Section 3.(a) amends the powers of chief district court judges in G.S. 7A-146 to allow designation of certain magistrates to accept waivers of counsel in addition to appointing counsel and removes the restriction that this designation only fall to magistrates who are duly licensed attorneys. Section 3.(a) clarifies that this authority does not apply for potentially capital offenses. Section 3.(c) removes a restriction in G.S. 14-444 that prohibits a magistrate from accepting a guilty plea and entering judgment for the offense of intoxicated and disruptive in public.

Section 4 amends existing G.S. 20-38.7 in subsection (c) to require that if certain appeals to superior court for implied-consent offenses are withdrawn or a case is remanded back to the district court, the sentence imposed by the district court is vacated and the district court shall hold a new sentencing hearing and consider any new convictions unless certain conditions are met. New subdivisions (1) through (3) are created that outline these conditions. This section becomes effective October 1, 2015, and applies to appeals filed on or after that date.

Section 5 amends G.S. 15A-2005 to conform State law with the United States Supreme Court decision in *Hall v. Florida* replace the term "mentally retarded" with "intellectual disability" and to provide that an intelligence quotient of 70 is approximate and a higher score resulting from the application of the standard error of measure to a quotient of 70 does not preclude the defendant from being able to present additional evidence of intellectual disability.

Section 6 amends G.S. 14-27.5A to provide that when a person is convicted of sexual battery under the statute, the sentencing court must consider whether the person is a danger to the community and whether requiring the person to register as a sex offender would further the purposes of Article 27A, Sex Offender and Public Protection Registration Programs. The section further addresses the registration process. Section 6 also amends G.S. 14-208.6(5) to remove sexual battery from those violations that meet the definition of sexually violent offense. This section applies to sentences imposed on or after December 1, 2015.

Section 7 amends G.S. 122C-251 to require a city or county to remove a requirement that transportation of a respondent in involuntary commitment proceedings be by a driver or attendant who is the same sex as the respondent, and allows the city or county to provide the service to the extent feasible. Section 7 further enacts new G.S. 122C-295 to allow a custody order entered by the clerk or magistrate under the Chapter to be delivered to the law enforcement officer by electronic or facsimile transmission.

Section 8 amends G.S. 15A-150 to allow AOC to notify State and local authorities about expunction of records by electronic and facsimile transmission and allows AOC to enter into an agreement with State agencies to notify this way afterwards.

Section 9 would amend the conditions of pretrial release statute, G.S. 15A-534. Section 9(a) would change the current requirement that bond be doubled for anyone charged with a new crime while on pretrial release for pending charge from a mandatory requirement to a permissive authorization. Section 9(b) would add a new provision prohibiting the requirement of an appearance bond for anyone charged with only a Class 3 misdemeanor for which judgment for that person could consist

of only a fine. This section becomes effective July 1, 2015, and applies to conditions of pretrial release imposed on or after that date.

Section 10 would amend the provisions regarding retention of biological evidence to require a hearing before a defendant may waive the duty to preserve evidence and to provide a procedure to allow cumbersome evidence to be disposed of or returned to a rightful owner with only the preservation of certain portions likely to contain biological evidence. This section becomes effective October 1, 2015.

Section 11 amends Rule 803(6) of the Rules of Evidence found in G.S. Chapter 8C to allow a custodian of business records to certify the authenticity of such records in lieu of requiring an in-person testimony by the custodian under certain restrictions. This section is effective October 1, 2015.

Section 12 amends G.S. 50B-4.1(d) to provide that the provisions of this subsection regarding the enhanced penalties for violation of protective orders do not apply to convictions of a Class A or B1 felony or conviction of the offenses as found in G.S. 50B-4.1(f) or (g)

Section 13 amends G.S. 14-50.43(d) to provide that orders entered concerning street gang nuisance abatement cases will expire one year after entry unless extended by the court for good cause as established by the plaintiff after a hearing.

Section 14 amends G.S. 15A-173.2(a) to provide that an individual convicted of criminal offenses no higher than a Class G felony can petition the court where the individual was convicted of his or her most serious offence for a certificate of relief, relieving the specified collateral consequences. This section is effective October 1, 2015 and applies to certificates issued on or after that date.

ASSUMPTIONS AND METHODOLOGY:

Sections 1 and 2 will require corresponding changes to certain fields and screens in AOC's computer criminal indexing systems ACIS and CCIS-CC. Section 1 changes will require additional modifications to the payNCTicket application and the standard Criminal Bill of Costs form. Because AOC's Technology Services Division staff is fully engaged with existing projects, any additional projects will require additional resources through contracted services. The changes in Section 1 will require \$18,104 in additional funds for AOC. The changes in Section 2 will require \$4,960 in additional funds for AOC. The changes in Section 2 may also require additional deputy clerk personnel necessary to record additional data in the index, but that cost cannot be estimated at the current time.

Section 3 is not expected to have any fiscal impact on the State.

Section 4 may require a programming adjustment to AOC's criminal computer indexes to account for the new set of variations. Fiscal Research Division does not estimate that these costs will be significant.

Sections 5 through 14 are not expected to have any fiscal impact on the State.

SOURCES OF DATA: Administrative Office of the Court.

TECHNICAL CONSIDERATIONS:

Section 1 becomes effective July 1, 2015. Because AOC will need to make changes to two major court technology systems, the agency may need a later effective date in order to have time to implement changes.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: William Childs

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: March 18, 2015



Signed Copy Located in the NCGA Principal Clerk's Offices