

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1085 (2nd Edition)

SHORT TITLE: Probation Revocation to Court of Appeals

SPONSOR(S): Rep. Hackney

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
REVENUES					
EXPENDITURES	\$50,000 (NR)				
POSITIONS:					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Judicial Branch				
EFFECTIVE DATE:	Dec 1, 2001 - applies to offenses committed on or after that date				

BILL SUMMARY: Amends GS 15A-1347 as title indicates. Provides that appeals go directly to the Court of Appeals if activated sentence is 6 months or less. Effective Dec. 1, 2001, and applies to offenses committed on or after that date.

ASSUMPTIONS AND METHODOLOGY:

Under current law, probation revocations by a district court judge can be appealed de novo to Superior Court. This bill would instead direct appeals to the Court of Appeals, if the sentence activated by the revocation is less than or equal to 6 months. While there are not data readily available on the frequency of appeals of probation revocations to Superior Court and Court of Appeals, this change would result in some reduced workload in Superior Court. However, a record of the proceedings in District Ct would be needed for the appeal. Generally, District Ct criminal proceedings are not recorded but recording systems are used in District Ct Civil cases. In some counties, there may not be an equipped courtroom available in which to record these proceedings. This could occur in the smaller counties with less equipment or in larger counties where the civil courtroom is fully used.

In April, the Judicial Branch did a very quick survey of counties to identify those that would lack access to a courtroom with recording equipment for these kinds of cases. Of the 55 counties that initially responded (which represented a variety of sizes of county), 8 stated they would not have an available courtroom with recording equipment. If these 55 counties are representative, there would be 15 counties statewide in this situation. With an estimated cost per system of \$2,500, that resulted in an estimated fiscal impact of \$37,500 (=15*2500) as included in the original fiscal note.

Ultimately, 79 counties responded to the survey and 13 of these indicated they did not have the requisite equipment. If those 79 counties are representative, that suggests 17 counties need equipment. Because some counties indicated a need for more than 1 set of equipment (e.g. Guilford has courthouses in both Greensboro and High Point), the total need is greater than 17 and the total number of units requested by the clerks who responded was 38. However, it is not possible to identify an exact number without auditing each county's courtroom situation and contacting all the clerks who did not respond. Given this uncertainty, a reasonable estimate is 20.

The Judicial Branch estimates the cost of each system at \$2,500. The cost of purchasing 20 systems would be \$50,000 with potential additional wiring costs. AOC does not receive any funding for non-technology equipment and they would have to fund this purchase either by reallocating other non-personnel expenses or by using the technology fee fund proceeds.

TECHNICAL CONSIDERATIONS: HB 1139, Appeals from Contempt, poses a similar situation for the court system. Funding would be needed for **either** HB 1139 or HB 1085, but not both.

FISCAL RESEARCH DIVISION 733-4910

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