

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 392 < 1st Edition >
SHORT TITLE: Matthew Shepard/Increase Hate Crime Penalty
SPONSOR(S): Senators Lucas and Miller

FISCAL IMPACT

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

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

REVENUES

EXPENDITURES

Department of Correction--No estimate available (*If* convictions follow the pattern of prior year convictions, it could result in one additional prison bed per year)

Judicial Branch--No estimate available but no substantial impact anticipated

POSITIONS: 0

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch and Dept. of Correction

EFFECTIVE DATE: This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

BILL SUMMARY:

GS 14-3(c) currently increases the offense class of misdemeanors that are committed because of the victim's race, color, religion, nationality, or country of origin. This bill makes GS 14-3(c) applicable to misdemeanors that are committed because of the victim's *real or perceived* race, color, religion, nationality, country of origin, *gender, sexual orientation, disability, or age*. It also includes a new provision which would make any felony committed on the basis of animosity towards a victim falling in a protected class punishable at one prior record level higher than that authorized by the defendant's prior record (N.C.G.S. 14-3(d)). In addition, the bill also increases the punishment of Ethnic Intimidation (N.C.G.S. 14-

401.14 (a) and (b)) from a Class 1 misdemeanor to a Class I felony (now, Class 1 misdemeanor).

ASSUMPTIONS AND METHODOLOGY:

Expansion of Scope to Include Gender, Sexual Orientation, Age, or Disability

There is no data available on how many offenders are currently convicted under N.C. G.S. 14-3 or what the underlying offenses are. Therefore, the impact on the Department of Correction of broadening the scope cannot be determined. In addition, the Administrative Office of the Courts (AOC) does not anticipate a substantial impact on the court system.

Felonies Punishable At One Prior Record Level Higher

It is not possible to determine which offenders convicted of Class B1-I felonies to which this provision could apply. Since the number of average additional months served by moving up one prior record level will vary greatly depending on the original felony class and prior record level, the impact of this provision on the Department of Correction cannot be determined. Moreover, the AOC states that there would not be a substantial fiscal impact on the court system as a result of this amendment.

Increase Punishment for Ethnic Intimidation

According to the Sentencing Commission, there were 3 convictions for ethnic intimidation during FY 1999/00. All three of these convictions resulted in sentence lengths of 90 days or less (i.e., jail sentences). If these 3 offenders were moved to Class I, this would result in the need for one additional prison bed the first year and one additional prison bed the second year. The mean minimum sentence imposed for Class I felonies during Fiscal Year 1999/00 was 7.4 months. Because there are no surplus prison beds available for the five year Fiscal Note horizon and beyond, each active sentence would create the need for an additional prison bed and have a fiscal impact on the Department of Correction.

AOC offense code statistics reveal that 37 defendants were charged with ethnic intimidation in calendar year 2000. They do not have data from which to predict how many additional charges would occur as a result of this amendment. Assuming the number of charges remain constant, they state the number of cases involved does not appear so large as to result in a substantial fiscal impact. However, it should be noted, the increase in punishment for the existing offenses will translate into more time and cost for courts to dispose of these cases.

OTHER INFORMATION

SBI collects data on crimes committed with animosity based on race, religion, sexual orientation, ethnicity, and disabilities; however, they do not collect data on crimes committed with animus based on gender or age. In 1999, SBI reported 31 hate crime incidents (24 for race, 2 for ethnicity, 4 for religion, and 1 for sexual orientation). Due to limited participation by reporting agencies regarding hate crimes, the volume and types of crimes motivated by hate statewide may not be fully represented in the figures, as noted by SBI.

TECHNICAL CONSIDERATIONS: None

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