

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: House Bill 4 (First Edition)

SHORT TITLE: Good Faith Exception/Exclusionary Rule.

SPONSOR(S): Representative Stam

FISCAL IMPACT				
Yes (X)	No ()	No Estimate Available ()		
<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
EXPENDITURES:				
		Indeterminate Fiscal Impact		
Judicial				
Correction		Indeterminate Fiscal Impact		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Department, Department of Correction				
EFFECTIVE DATE: This act is effective when it becomes law.				

BILL SUMMARY:

Amends GS 15A-974 by removing the requirement that evidence be suppressed at criminal trial if it is obtained as a result of a substantial violation of the provisions of GS Chapter 15A (Criminal Procedure Act). Requests the North Carolina Supreme Court to reconsider and overrule its holding in State v. Carter that the good faith exception to the exclusionary rule, which exists under federal law, does not apply under state law

Source: Bill Digest H.B. 4 (01/28/0200).

ASSUMPTIONS AND METHODOLOGY:

General

This proposed bill 1) removes the requirement that evidence be dismissed or suppressed if it is obtained in violation of G.S. Chapter 15A and 2) requests that the NC Supreme Court review its prior ruling that the good faith exception shall not apply under state law. As a result, the bill will allow more evidence to be considered in criminal cases. This may cause either longer, more costly trials due to the increase of evidence or shorter, less costly trials due to the increase of occurrences of pleas made by defendants.

Judicial Department

The Administrative Office of the Courts (AOC) staff does not have data available on reasons for dismissal or on suppression of evidence under G.S. 15A-974. AOC assumes that it is possible that by allowing the good faith exception to the exclusionary rule, there may be more trials in cases that would previously have been dismissed for lack of evidence. However, they assert that it is also possible that the proposed change will result in more pleas in cases where the defendant would have otherwise gone to trial. AOC estimates that to the extent that this legislation would require more work on the part of judges, district attorneys, or other court personnel, there will be a cost to the court system. Therefore, they are *unable to estimate the impact of this proposed change on the courts.*

Department of Correction

The North Carolina Sentencing and Policy Advisory Commission reviewed the proposed bill to assess the potential impact on the Department of Correction's Division of Prisons. Commission staff reported that they do not have any data on how many cases had evidence that was excluded that would now be allowed (due to the changes proposed in this bill). Therefore, *they are unable to provide a prison impact projection.* While the changes proposed by the bill may produce some prison impact, it is not possible for the Commission to predict how many cases would have evidence included that would result in a conviction that would result in an active sentence.

SOURCES OF DATA: Administrative Office of the Courts, Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

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