

ASSUMPTIONS AND METHODOLOGY:

Overall

A reliable estimate of the fiscal impact of SB 297 cannot be provided because it is unknown how many defendants would be convicted of felony murder and sentenced to life imprisonment once this bill becomes law. Further, it cannot be estimated the number of cases that would be affected, the outcome of the cases that would be affected, or the savings from having fewer capital trials.

Judicial Branch

A major qualifying assumption is that removing the death penalty from first-degree murder under the felony murder rule *would apply only prospectively, to new trials, and would not apply to persons already on death row*. If this bill applies to persons currently on death row, and a large number of motions are filed and such motions are unsuccessful, there could be a substantial fiscal impact on the courts. On the other hand, if the motions are successful, the cost of the motion could be offset in whole or part by savings from any other motions or proceedings that would otherwise have been brought in state court.

The Administrative Office of the Courts (AOC) believes the bill would provide significant savings for felony murder cases that would have proceeded to a capital trial. However, they are unable to estimate the number of such cases and the associated savings. Under the bill, some savings can be expected with respect to cases pending or filed on or after the effective date. The savings would relate to costs incurred with capital trials and additional jury trials.

Department of Correction

Given that it is unknown how many defendants would be convicted of felony murder and sentenced to life imprisonment, **the fiscal impact on the Department of Correction (DOC) in the long term cannot be determined at this time. However, it is clear that there will be no cost in the five-year fiscal note horizon.**

The key issue is the difference between the length of time the average inmate will spend on death row before execution versus the length of time the average inmate will remain in prison on a sentence of life without parole. According to information from DOC, there are currently 201 inmates with a death sentence. Sixteen people have been executed since the passage of the 1977 Death Penalty provision and through the end of CY 2000. From CY 1995 through CY 2000, 10 people were executed. For these executions, the average time on death row prior to execution was almost 11 years. If individuals were convicted of felony murder, but not sentenced to death, they would still take up a prison bed during that timeframe. Therefore there would be no fiscal impact for at least the first eleven years of this bill.

Although SB 297 has no short-term fiscal impact on DOC, there could be long-term fiscal impact based on information from the North Carolina Sentencing and Policy Advisory Commission. Of the 23 offenders who were sentenced to death in FY 1999/2000, the age range was from 19 to 50. Since a life sentence under Structured Sentencing means for the rest of the person's natural life, if these persons had been sentenced to life without parole

and lived to age 65, the average time served would have been 33.7 years. Thus, SB 297 would affect the long-term incarceration rate and create the need for more prison beds.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None
Section 2 of this bill makes the bill “effective when it becomes law.” The bill is ambiguous with regard to whether it applies to persons currently under a sentence of death. There are approximately 220 people on death row, and data suggests that 5% to 10% of first-degree murder convictions are solely on the basis of felony murder.

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