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NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 564

SHORT TITLE: Resetting Execution Date

SPONSOR(S): Senator Odom

FISCAL IMPACT:	Expenditures:	Increase ()	Decrease ()
	Revenues:	Increase ()	Decrease ()
	No Impact (X)		

BILL SUMMARY: "TO CHANGE THE MANNER IN WHICH AN EXECUTION DATE IS RESET FOR A PERSON WHO HAS BEEN SENTENCED TO DEATH AND WHOSE SENTENCE HAS BEEN AFFIRMED AND ANY STAY OF EXECUTION HAS EXPIRED." Rewrites most of G.S. 15-194, which provides rules for setting new execution date when Supreme Court has filed an opinion upholding death sentence, a stay of execution has expired or been terminated, or a reprieve by Governor has expired or been terminated. Upon receiving notification of any of these events, warden of State penitentiary at Raleigh is to fix a new date for execution of the original sentence not less than 30 nor more than 45 days from the date of receiving that notification. Warden is to send a certified copy of the document fixing the date to the clerk of superior court of the county in which the case was tried; copy is to be recorded in the court's minutes. Warden also sends certified copies of document to condemned person, their attorney, and district attorney who prosecuted the case. (Under current law, a superior court hearing is required with condemned person or their attorney present, and date of execution is to be set for not less than 60 nor more than 90 days from date of hearing, with certified copy of order fixing date recorded in court minutes and sent by clerk of court to warden. Clerk also sends the other certified copies.)

EFFECTIVE DATE: Effective on ratification; applies to all death sentences imposed on or after ratification.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch; Department of Correction

FISCAL IMPACT

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>FY</u> 99-00			

EXPENDITURES
NON-RECURRING

RECURRING NO FISCAL IMPACT

Capital defendants pursue various post-trial challenges to death sentences, including state appeal of right, review by the U.S. Supreme Court, state and federal "post-conviction" proceedings, and additional appellate review. Stays of execution are issued during such proceedings, and if the proceedings do not disturb the death sentences, under G.S. 15-194 the district attorney must "promptly" calendar a superior court hearing to reschedule the execution date. The clerk must notify the warden of the State penitentiary of the new execution date.

The proposed legislation would amend G.S. 15-194 such that in place of a superior court hearing, upon notification that a stay of execution has expired or been terminated, the warden shall "forthwith" fix a new execution date and notify the clerk. The execution date must be not less than 30 nor more than 45 days from when the warden receives the notification (was 60 days/90 days from the date of hearing).

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

Although the proposed legislation would eliminate one action presently required in superior court, capital defendants routinely pursue multiple avenues for relief. Thus, the Administrative Office of the Courts does not anticipate a substantial savings in overall workload.

ASSUMPTIONS AND METHODOLOGY: Department of Correction

According to the Department of Correction, the time required to set a new execution date and notify the clerk of that date would not be substantial. Thus, the proposed legislation is not anticipated to have a measurable fiscal impact on the Department of Correction.

SOURCES OF DATA: Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

FISCAL RESEARCH DIVISION (733-4910)

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DATE: April 24, 1995

[FRD#003]



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