

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)**

BILL NUMBER: SB 251 3rd Edition

SHORT TITLE: Prohibit Rebirthing

SPONSOR(S): Senator Allran

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
GENERAL FUND					
Correction					
Recurring	Unable to determine exact amount; no substantial impact anticipated.				
Nonrecurring					
Judicial					
Recurring	Unable to determine exact amount; no substantial impact anticipated.				
Nonrecurring					
TOTAL EXPENDITURES:	Unable to determine exact amount; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS*	Unable to determine exact number of beds; no substantial impact anticipated				
POSITIONS: (cumulative)	Unable to determine exact amount; additional positions not anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction (DOC); Judicial Branch				
EFFECTIVE DATE:	December 1, 2003				
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY: SB 251 amends article 52 of Chapter 14 of the General Statutes by adding a new section, G.S. 14-401.21, to prohibit the practice of a “rebirthing technique”, defined as a technique to reenact the birthing process in a manner that includes restraint and creates a situation in which a patient may suffer physical injury or death. A first offense for violation of G.S. 14-401.21 is punishable as a Class A1 misdemeanor; a second or subsequent offense is punishable as a Class I felony. The bill also adds amends G.S. 122C-60(a) to specify that a technique to reenact the birthing process is not a measure of therapeutic treatment.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year Fiscal Note horizon and beyond.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. In FY 2001-2002, 20 percent of Class A1 misdemeanor convictions resulted in active sentences, 76 percent of Class A1 misdemeanants received community punishment, and four percent were sentenced to an intermediate sanction. In 2001-2002, costs for community and intermediate sanctions ranged from \$1.83 to \$11.47 per offender per day. It is likely that misdemeanants sentenced to an active sentence under this bill would be housed in local jails but paid for by the State at a cost of \$18/day. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because only A1 offenders falling in Prior Record Level III receive active sentences that might be served in the state prison system, convictions for this proposed offense would not be expected to have a significant impact on the prison population.

In addition, it is not known how many offenders might be sentenced under the Class I felony for a second or subsequent offense. For example, if there were 10 Class I convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. In 2001-2002, 9 percent of Class I felony offenders were sentenced to active sentences, 37 percent were sentenced to intermediate sanctions, and 54 percent were sentenced to community punishment. On average, offenders served between seven and nine months. In 2001-2002, costs for community and intermediate sanctions ranged from \$1.83 to \$11.47 per offender per day, and the statewide average operating cost for one prison inmate was \$62.43/day (\$22,787/year).

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the bill creates a new offense, AOC is unable to estimate the number of new felony or misdemeanor charges that could arise from this bill. For offenses that are brought to trial as Class A1 misdemeanors, the estimated court cost per trial is \$2,594. For Class A1 misdemeanor offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$214. While the number of Class I felony cases that could result under the bill is relatively low, trials would be jury trials in superior court rather than misdemeanor cases in district court, and total processing and position costs would also increase. For offenses that are brought to trial as Class I felonies, the estimated court cost per trial is \$4,637. For Class I felony offenses not brought to trial and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$255.

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

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