

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 873 (Proposed Committee Substitute)

SHORT TITLE: No Obstruction/Hlth Facilities

SPONSOR(S): Senator Winner of Mecklenburg

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

FUND AFFECTED: **General Fund** () **Highway Fund** () **Local Fund** ()
 Other Fund ()

BILL SUMMARY: Creates new G.S. 14-277.4 to provide criminal penalties for obstruction of health care facilities. Makes it a misdemeanor under subsection (a), punishable by imprisonment for not less than thirty days and not more than six months (with the minimum sentence not subject to suspension), to obstruct access to or from a health care facility. Makes it a misdemeanor under subsection (b), punishable by imprisonment of not more than six months, to interfere with access to or from a health care facility or disrupt the normal functioning of such facility; lists conduct that violates subsection (b), including but not limited to threatening to inflict injury on employees or patients of facility. Provides further that a second violation of either (a) or (b) within three years of the first violation is punishable by imprisonment for not less than six months and not more than two years (with the minimum sentence not subject to suspension); and that a third or subsequent violation of either (a) or (b) within three years of the most recent violation is a Class I Felony. Also provides that any person aggrieved under G.S. 14-277 may seek an injunction, the violation of which constitutes criminal contempt and is punishable by imprisonment for not less than thirty days and not more than six months. Clarifies that section does not prohibit any person from engaging in lawful speech or picketing that does not interfere with a person's access to health care or the delivery of health care. Revises G.S. 14-277.2(a) to make it a misdemeanor to possess or have immediate access to any dangerous weapon during a demonstration upon any private health care facility.

AMENDMENT/PROPOSED COMMITTEE SUBSTITUTE Changes criminal penalty under subsection (a), by deleting minimum term of imprisonment and by deleting clause that makes minimum sentence not subject to suspension. Subsection (c) makes violation of subsection (a) or (b) a misdemeanor punishable by a fine of not more than \$500, imprisonment not to exceed six months, or both. Section (c) further provides that a second violation of either (a) or (b) within three years of the first violation is punishable as a general misdemeanor (deletes mandatory minimum imprisonment term of not less than six months and

deletes clause that states the minimum sentence is not subject to suspension). Deletes references to specific acts from list of behaviors that violate subsection (b). Adds subsection (g) to clarify that persons subject to subsections (a) and (b) do not include "owners, officers, agents, or employees of the health care facility or law enforcement officers acting in the course of their employment." Changes effective date from December 1, to October 1, 1993.

EFFECTIVE DATE: October 1, 1993

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

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
EXPENDITURES	0	0	0	0	0
NON-RECURRING					
REVENUES/RECEIPTS	0	0	0	0	0
RECURRING					
NON-RECURRING					

POSITIONS: No new positions.

ASSUMPTIONS AND METHODOLOGY: Based on the following analysis conducted by the Administrative Office of the Courts (AOC), it is not anticipated that this bill would have a substantial fiscal impact on the Judicial Department or the Department of Correction. The AOC estimates that there would be relatively few new filings resulting from this bill, which makes it illegal to "obstruct or block ... access to or egress from a health care facility... in a manner that deprives or delays the person from obtaining or providing health care services." The bill also prohibits the injury, intimidation, or attempt to injure or intimidate one who has obtained health care services, aided another to obtain such services, or provided such services. The bill also prohibits "any person participating in ... a demonstration upon any private health care facility ..." from "willfully or intentionally possess[ing] or hav[ing] immediate access to any dangerous weapon."

"Law enforcement and district attorneys offices in several cities known for past instances of abortion protests were contacted to obtain their views on the legislation as originally introduced. (No time was available to ask follow-up questions concerning the committee substitute.) The vast majority of both law enforcement representatives and district attorney representatives stated that the law would have no significant impact on arrests or court caseloads.

"Currently, intrusive or abusive protesters are being arrested for second degree trespass, traffic laws such as obstructing traffic, assault, and/or resisting arrest. Arrests for such protests were reported to be fairly infrequent (ranging from

estimates of 0 per year, in three large cities contacted, to 60-70 per year in Mecklenburg). Those contacted did not feel that this bill, if enacted, would significantly change the incidence of arrest. A few officers commented that most protesters comply with the law and would continue to do so. Even if there were a few more prosecutions, district attorneys said that such defendants are often jointed for trial, thus several defendants' cases are disposed at the same time.

"The committee substitute deleted references to specific acts (noise, noxious orders, telephoning, etc.) that would be illegal in the disruption of facility functioning, and substitutes the section relating to injury and intimidation. It is doubtful that this section would add new filings, since assaults and attempted assaults are already illegal, and intimidation, if severe enough, could be charged under communicating threats.

"Although increased arrests and prosecutions are not predicted to be significant, there could be some initial constitutional challenges of the legislation on the basis of such issues as vagueness, overbreadth, and First Amendment (free speech and assembly).

"Although we are not predicting a substantial fiscal impact on the Judicial Branch due to this individual bill, at some point, the cumulative additional workload from bills that impact on the courts cannot simply be absorbed, and additional resources will be required."

Regarding potential impact upon the Department of Correction, it is not anticipated that this bill would have significant fiscal impact as amended. As stated above, the proposed legislation is not expected to impact the number of arrests. Since current arrests for acts covered under this bill are infrequent and already prosecuted as a variety of misdemeanor charges, the deletion of the minimum mandatory sentencing requirements should eliminate potential fiscal impact.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

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