NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 304

SHORT TITLE: Child Care Subsidy Fraud/AB

SPONSOR(S):   Representatives Earle, Gardner, and Wainwright

FISCAL IMPACT

Yes (X)   No ( )   **No Estimate Available (X)**

	FY 1999-00	**FY 2000-01**	**FY 2001-02**	**FY 2002-03**	**FY 2003-04**
REVENUES					
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) &
  PROGRAM(S) AFFECTED: Administrative Office of the Courts, Department of Correction, Department of Health and Human Services, and Local Departments of Social Services

EFFECTIVE DATE: Section 1 is effective December 1999; Section 2 is effective July 1, 1999

BILL SUMMARY: This bill establishes fraudulent misrepresentation by a child care provider, or a recipient of child care subsidies, as a Class 1 misdemeanor if the amount of the subsidy collected fraudulently is $400 or less, and as a Class I felony if it is more than $400. Also, the bill authorizes the Department of Health and Human Services (DHHS) to allow local purchasing agencies to retain the actual amount of the fraud and overpayment claims they collect (but not overpayments due to administrative errors) as incentive bonuses. At least 75% of the incentive bonus must be used to purchase subsidized child care; the remainder may be used for program integrity activities. DHHS shall report by October 1 each year on the use of these incentive bonuses.

ASSUMPTIONS AND METHODOLOGY:

Impact on the Administrative Office of the Courts and the Department of Correction:

The Administrative Office of the Courts (AOC) anticipates a fiscal impact from this bill in terms of additional attorney and court time. However, this impact cannot be estimated because AOC does not know how many child care subsidy fraud cases are prosecuted currently and how many additional cases may be prosecuted as a result of the penalty changes made by this bill. The Sentencing Commission projects this bill will have no significant impact on prison populations.

Currently, child care subsidy fraud is prosecuted under G.S. 14-100, the general fraud statute for obtaining property under false pretenses. The offense is a Class H felony for amounts less than $100,000 and a Class C felony for amounts involving $100,000 or more.

HB 304 proposes changing the penalties for child care subsidy fraud to be similar to ones for fraudulent conduct to obtain public assistance money (i.e., G.S. 108A-39, Misrepresentation to Obtain Public Assistance Under the Work First Program and G.S. 108A-53, Misrepresentation to Obtain Benefits Under the Food Stamp Program). Under these statutes, where the amount obtained fraudulently is $400 or less, the offense is a Class 1 misdemeanor; when the benefits exceed $400, the offense is punishable as a Class I felony.

AOC records do not specify the number of child care subsidy fraud cases charged in CY1998 under the general fraud statute (G.S. 14-100). In 1997-98, 75% or more of the sentencing episodes for public assistance-related fraud (G.S. 108A-39 and 108A-53) were punished as Class 1 misdemeanors, versus Class I felonies.

According to the Attorney General's Office, child care subsidy fraud is generally resolved through settlement, with local purchasing agencies recouping some of the loss from the offender. Since this bill provides an incentive bonus to local purchasing agencies, there may be increased investigations resulting in additional misdemeanor charges. According to a July 1998 survey of the 93 local purchasing agencies by the Division of Child Development, 28% of the 646 cases of child care subsidy fraud occurring over the previous two years were litigated.

Impact on the Department of Health and Human Services

HB 304 will have some fiscal impact on the amount of funding available for child care subsidy allocations, but the impact will be minimal due to the small size of the fraud recoupments compared to the total funding for subsidies.

Currently, funding recouped by local purchasing agencies (usually the local DSS office) from child care subsidy fraud is returned to the state and reallocated to counties for child care subsidies. Counties cannot use any of these funds for program integrity activities.

In July 1998, the Division of Child Development surveyed the 93 local purchasing agencies about child care subsidy fraud which had occurred during the previous two years. Of

the 69 agencies responding, 50 agencies reported 646 cases of child care subsidy fraud with a total amount recouped of $145,431.53 (approximately $73,000 each year).

HB 304 allows local purchasing agencies to retain 25% of any funding recouped for program integrity activities. In 1997-98, agencies would have retained 25% of $73,000, or $18,250. Therefore, the state would have had $18,250 less funding for child care subsidies. (The 1998-99 budget for child care subsidies is $251 million.)

Even if the incentive bonuses result in a tripling of fraudulent overpayments recouped over the next five years, the impact on state-level child care subsidy funding from local agencies retaining 25% will be minimal:

FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
($18,250)	($27,375)	($36,500)	($45,625)	($54,750)

Impact on Local Departments of Social Services

Currently, all counties have fraud workers, but they focus primarily on food stamp and welfare fraud cases. HB 304 would provide counties the opportunity for an additional funding source to pursue program integrity activities related to child care subsidy fraud. The amount of additional funding available to counties will be the same as the amount lost to the state for child care subsidies (above):

FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
$18,250	$27,375	$36,500	$45,625	$54,750

SOURCES OF DATA: Administrative Office of the Courts, NC Sentencing and Policy Advisory Commission, and Department of Health and Human Services

TECHNICAL CONSIDERATIONS: None.
FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Mary Ellen Sylvester and Tammy Lester
APPROVED BY: Tom Covington

DATE: Monday, April 26, 1999

Official
Fiscal Research Division
Publication

Signed Copy Located in the NCGA Principal Clerk's Offices