

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

**BILL NUMBER:** HB 264 1<sup>st</sup> Edition

**SHORT TITLE:** Sentence Lengths

**SPONSOR(S):** Representative Haire

<b>FISCAL IMPACT</b>					
	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>
<b>GENERAL FUND</b>	( ) denotes savings				
<b>Correction</b>					
<b>Recurring (operating)</b>	\$ -	\$180,000	\$1.3 M	\$500,000	(\$1.2 M)
<b>Nonrecurring (construction)</b>	\$3.2 M	(\$2.5 M)	(\$5.2 M)	(\$12.9 M)	(\$23.2 M)
<b>Judicial</b>	No substantial impact anticipated.				
<i>This bill will generate additional savings – recurring and nonrecurring – beyond the first five years. See Charts 2, 5, and 6 for details.</i>					
<b>PRISON BEDS</b>					
<b>ADDED (SAVED)*</b>		<b>7</b>	<b>49</b>	<b>18</b>	<b>(43)</b>
<b>(Cumulative):</b>					
<b>POSITIONS</b>					
<b>ADDED (SAVED)</b>		<b>3</b>	<b>20</b>	<b>7</b>	<b>(17)</b>
<b>(Cumulative):</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction (DOC); Judicial Branch					
<b>EFFECTIVE DATE:</b> December 1, 2003					
* <i>These figures are 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. See Charts 7 and 8 for the combined impact of this bill as well as other related bills introduced in the NC House. All five bills were based on alternatives included in the May 2002 Sentencing Commission report.</i>					

**BILL SUMMARY:**

This bill would make the increase in sentence lengths between prior record levels more proportionate using a set percentage (15%) increment. The current sentence lengths in Prior Record Level I in each offense class would remain unchanged, serving as an anchor, while the sentence lengths increase between each subsequent prior record level would be changed to 15 percent in all classes except Classes H and I, which would remain unchanged. As a result, sentence lengths in 47 percent of the Felony Punishment Chart grid cells would be reduced, sentence lengths in 45 percent of the cells would remain unchanged, and sentence lengths in 8 percent of the cells would increase.

## **ASSUMPTIONS AND METHODOLOGY:**

### **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 defendants will face the same charge (there is no change in the felony cases being charged), and overall appear to face sentences of the same type and similar magnitude, the AOC does not anticipate that this bill will have a substantial impact on court costs.

### **Department of Correction**

**The box on the front page shows a net savings from HB 264 each year. Although operating costs increase slightly in the first few years, they are outweighed by savings from foregone construction costs due to a decrease in the number of new beds that will have to be constructed each year to house the projected prison population.** (See Chart 5 on page 6 for more details.) Operating costs increase slightly in the first few years as a result of increases in sentence lengths for certain Class E, F, and G cells (as compared to the current felony grid). The sentence length reductions overtake these small increases by the fourth year.



**POSITIONS:** It is anticipated that, by FY 2007-08, approximately 24 fewer positions would be needed to supervise the reduced number of inmates housed under this bill. These position totals include security, program, and administrative personnel at a ratio of one employee for every 2.5 inmates. This ratio is the combined average of the last three prisons opened by DOC and the three new prisons under construction.

**PRISON BED COST SAVINGS:** The cumulative effect of HB 264 is to reduce the number of prison beds needed by 948 beds by FY 2011-12. (There is a projected cumulative reduction of 354 beds by the end of FY 2014.)

**FISCAL IMPACT BEYOND FIVE YEARS:** Fiscal Notes look at the impact of a bill for five years. However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill. **As shown below, this bill would reduce the number of new beds needed by 948 beds by FY 2011-12. This reduction is sizable enough to impact the number of prisons constructed, and is shown in the box on the first page as a reduction in nonrecurring Correction expenditures due to foregone construction costs.**

<b>CHART 2</b>	<b>First 5 Years 2003-2008</b>	<b>Next 4 Years 2008-2012</b>	<b>9-Year Horizon 2003-2012</b>
Reduction in Inmates Due to This Bill	(43)	(905)	(948)
Available Beds	(4,828)	(2,856)	(7,684)
Available Beds with HB 264	(4,785)	(1,951)	(6,736)
<b>Beds Saved</b>	<b>43</b>	<b>905</b>	<b>948</b>
<b>Positions Saved</b>	<b>17</b>	<b>362</b>	<b>379</b>

**DISTRIBUTION OF BEDS:** After analyzing the proposed legislation, the Department of Correction estimates that the bed savings under this bill will be distributed over the three custody levels as follows:

- 13% Close Custody
- 46% Medium Custody
- 41% Minimum Custody

**CONSTRUCTION:** Construction costs for new prison beds, as listed in the following chart, are based on estimated 2001-02 costs for each custody level as provided by the Office of State Construction and an assumed inflation rate of 5% per year.

<b>CHART 3</b>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
<u>Custody Level</u>			
Construction Cost Per Bed 2002-03	\$38,595	\$73,494	\$85,444

Construction costs, where applicable, are shown as non-recurring costs in the Fiscal Impact Table on Page 1 of this note. These costs assume that funds to construct prison beds should be budgeted in advance. Based on previous prison construction projects we are assuming it will typically require three years for planning, design and construction of new beds. For this bill, the reduction in inmates means that the State will not need as many new prisons as quickly. For this reason, the box on Page 1 shows a reduction in nonrecurring expenditures due to foregone construction costs. That reduction is due to a projected decrease in the need for prison beds by 483 beds by June 30, 2010:

- 49 beds added in 2005-06 (construction beginning in 2003-04)
- 31 beds saved in 2006-07 (construction beginning in 2004-05)
- 61 beds saved in 2007-08 (construction beginning in 2005-06)
- 144 beds saved in 2008-09 (construction beginning in 2006-07)
- 247 beds saved in 2009-10 (construction beginning in 2007-08)

The chart (Chart 5) on the following page illustrates the savings due to the reduction in prison beds. Beyond the five-year horizon shown in the box on the front page and in Chart 5, an additional 252 beds will be saved in FY 2011-12, and later years will see further reductions in prison beds needed. The State can therefore postpone construction of these beds.

**OPERATING:** Operating costs are based on actual 2001-02 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons. A 3% annual inflation rate will be added each year to the base costs for FY 2002 shown below and included in the recurring costs estimated in the Fiscal Impact Table on Page 1.

**Daily Inmate Operating Cost 2001-02**

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (2001-02)	\$50.04	\$65.17	\$80.19	\$62.43

## CHART 5

### Savings in Prison Operating & Construction Expenditures from HB 264: 5-year Outlook

	2003-04	2004-05	2005-06	2006-07	2007-08
<b>Total Operating Expenditures: All prison beds needed</b>					
Current Statutes/ Status Quo*	\$892.7 M	\$943.5 M	\$996.9 M	\$1,052.6 M	\$1,108.6 M
HB 264	\$892.7 M	\$943.7 M	\$998.2 M	\$1,053.1 M	\$1,107.4 M
<i>Net Savings**</i>	\$ -	\$180,000	\$1.3 M	\$500,000	(\$1.2 M)
<b>Total Construction Expenditures: All prison beds needed***</b>					
Current Statutes/ Status Quo*	\$232.3 M	\$ 76.8 M	\$ 74.0 M	\$ 70.4 M	\$ 67.8 M
HB 264	\$ 235.5 M	\$ 74.3 M	\$ 68.8 M	\$ 57.5 M	\$ 44.6 M
<i>Net Savings**</i>	\$ 3.24 M	(\$ 2.5 M)	(\$ 5.2 M)	(\$ 12.9 M)	(\$ 23.2 M)
<b>Total Savings**</b>	\$ 3.24 M	(\$ 2.3 M)	(\$ 3.9 M)	(\$ 12.4 M)	(\$ 24.4 M)
<b>Cum. Savings**</b>	\$ 3.24 M	\$ 900,000	(\$ 3.0 M)	(\$ 15.4 M)	(\$ 39.7 M)

\* Refers to the projected prison population under the status quo.

\*\*Figures in ( ) are savings. Figures not in parentheses are costs.

\*\*\* Uses medium custody construction costs based on DOC's projected distribution of beds. Construction costs in each fiscal year reflect beds that will be needed three years later.

## CHART 6

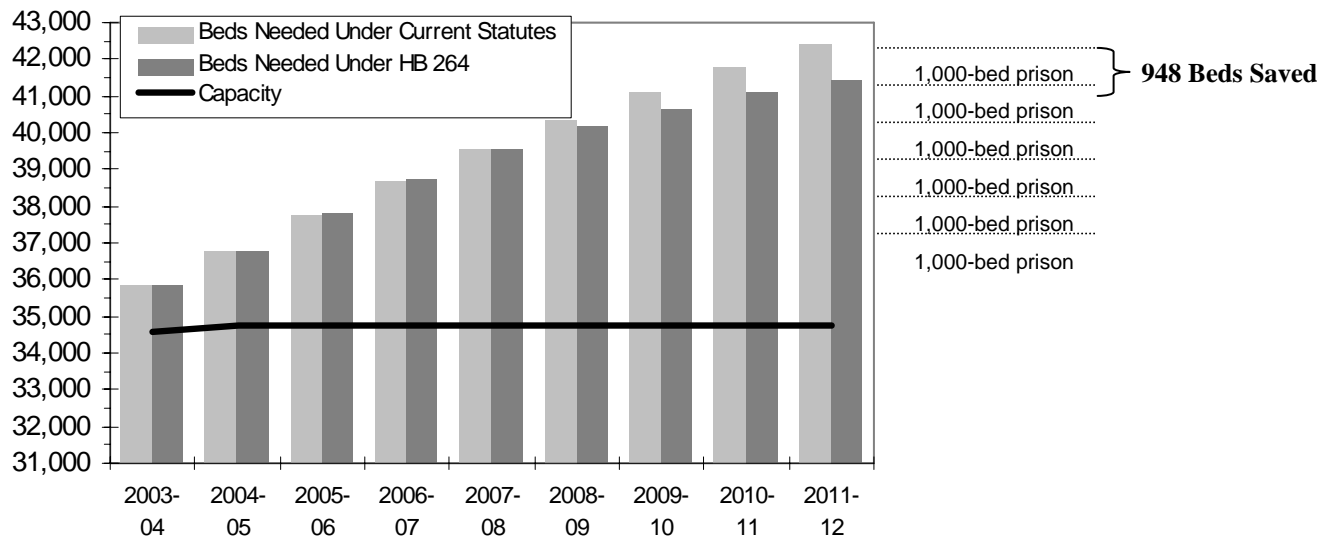


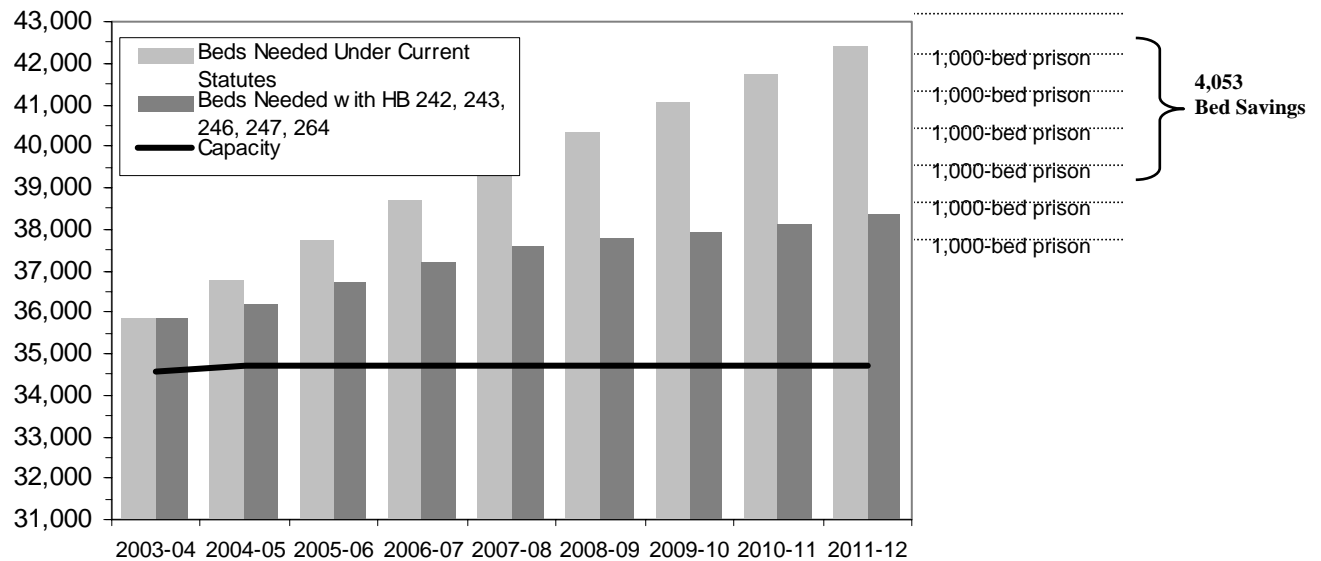
Chart 6 (above) illustrates the long-term savings in beds with HB 264. “Beds needed under current statutes” refers to the projected prison population under the status quo. “Beds needed under HB 264” refers to the revised projections for the prison population if HB 264 is enacted. “Capacity” is the total number of beds available (34,729) once the three new prisons authorized in 2001 are complete. With current costs and projections, by 2011-12 the State will have saved \$68.8 million, cumulative, in operating costs. The State will have saved \$95.03 million, cumulative, in foregone construction costs by 2009-10 (projections for construction costs cannot extend beyond 2009-10).

**Combined Impact of HB 264 and Other Related Bills Introduced in the NC House in 2003**

In addition to HB 264, four other bills introduced in the North Carolina Senate address the NC Sentencing and Policy Advisory Commission alternatives for slowing prison population growth consistent with the principles of structured sentencing and public safety. These bills are HB 242 (Amend Habitual Felon Law), HB 243 (Reclassify Statutory Rape/Sex Offense), HB 246 (Adjust B1-E Felony Penalties), and HB 247 (Prior Criminal Record Points). Because the sentencing provisions of these bills interact, the combined impact of the five bills is different from the sum of their individual impact. **The combined impact of HB 242, HB 243, HB 246, HB 247, and HB 264 is to save 4,053 prison beds by 2011-2012.** Chart 7 displays the combined impact the house bills.

**CHART 7**

The cumulative effect of the combined bills is to save the need for 4,053 prison beds by 2011-2012. With current costs and projections, by 2011-2012, the State will have saved \$543 million, cumulative, in operating costs. The State will have saved \$361.37 million, cumulative, in forgone construction costs by 2009-2010 (projections for construction costs cannot extend beyond 2009-2010).



## CHART 8

### Combined Prison Savings

	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
<b>Prison Beds Saved (Cumulative)</b>	-	-594	-1,003	-1,454	-1,976	-2,562	-3,137	-3,633	-4,053
<b>Positions Saved (Cumulative)</b>	-	-238	-401	-582	-790	-1,025	-1,255	-1,453	-1,621
<b>Operating Expenditures Saved if HB 242, 243, 246, 247, and 264 are Ratified (Mil)</b>	-	(\$15.23)	(\$26.5)	(\$39.6)	(\$55.4)	(\$74.0)	(\$93.3)	(\$111.3)	(\$127.8)
<b>Construction Expenditures* Saved if HB 242, 243, 246, 247, and 264 are Ratified (Mil)</b>	(\$77.4)	(\$36.5)	(\$44.4)	(\$52.3)	(\$53.9)	(\$48.9)	(\$47.9)	Unable to project**	Unable to project**

\* Uses medium custody construction costs based on DOC's projected distribution of beds. Construction costs in each fiscal year reflect beds that will be needed three years later.

\*\*Unable to project construction expenditures; prison population projections are only available through 2011-2012.

### Methodology

Operating costs were calculated by multiplying the statewide average operating cost, adjusted for inflation, by the number of beds added to the prison system each year by the bill(s). Negative operating costs reflect a reduction in the number of beds needed due to the bill(s).

Based on current prison population projections, the State will need to construct an additional 3,010 beds by FY 2005-06. Assuming that beds take three years to construct, construction expenditures for these beds would be budgeted in FY 2003-04. Because these bills reduce the prison population by 2005-06, the State will be able to begin construction of fewer beds in 2003-04. Beyond FY 2006-07, current projections indicate that the State will need to construct more than 400 new beds each year. Foregone construction expenditures were calculated by multiplying the cost of constructing a medium custody bed, adjusted for inflation, times the number of beds that would not be needed due to this bill. Construction *savings* each year reflect the reduction in beds needed three years later.



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

**TECHNICAL CONSIDERATIONS:** None

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