

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

**BILL NUMBER:** SB 555 2nd Edition  
**SHORT TITLE:** School Safety Officers – Students/Sex Offenses  
**SPONSOR(S):** Senator Stevens

	<b>FISCAL IMPACT</b>				
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>
<b>GENERAL FUND</b>					
<b>Correction</b>		Unable to determine exact amount.			
<b>Judicial</b>		Unable to determine exact amount; no substantial impact anticipated.			
<b>TOTAL EXPENDITURES:</b>		Unable to determine exact amount.			
<b>ADDITIONAL PRISON BEDS*</b>		Unable to determine exact amount.			
<b>POSITIONS: (cumulative)</b>		Unable to determine exact amount; no substantial impact anticipated.			
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction (DOC); Judicial Branch				
<b>EFFECTIVE DATE:</b>	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:** This bill modifies current G.S. 14-27.7(b) and G.S. 14.202.4 to make them apply to school safety officers, which includes a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools. School safety officers are not otherwise covered by any provision of these statutes because they generally would not be considered "school personnel" because they are not employed by the school and they generally are not independent contractors. By listing school safety officers with teachers, school administrators, student teachers, and coaches, the result is that school safety officers would be charged with a felony for violating these statutes regardless of their age in relation to the student. This bill does not modify the current levels of punishment for these offenses. Offenses of current G.S. 14-27.7(b) (sexual acts with a student while employed or volunteering at a school and not lawfully married to the student) are punishable as a Class G felony for teachers, school administrators, student teachers, or coaches. Offenses of current G.S. 14-202.4 (indecent liberties with a student while employed or volunteering at a school and not lawfully married to the student) are punishable as a Class I felony for teachers, school administrators, student teachers, or coaches.

**ASSUMPTIONS AND METHODOLOGY:**

Each LEA (Local Education Agency) receives funding for school safety officers based upon the number of high schools in the LEA that receive a principal allotment from the At-Risk Student Services/Alternative School funding allocation. Department of Public Instruction 2001-2002 data indicate that approximately 88 percent of LEAs have school safety officers. Sixty-five LEAs (out of 117) have school safety officers in all of their respective high schools.<sup>1</sup> Based on survey data, there are approximately 575-600 school safety officers within North Carolina's public schools.

Furthermore, data from the Center for the Prevention of School Violence indicated that there are 731 school resource officers (SROs) currently working in North Carolina schools. SROs are defined as a certified law enforcement officer who is permanently assigned to provide coverage to a school or a set of schools. This definition does not include non-law enforcement agency security guards, law enforcement officers who are rotated through schools as part of their regular duties, or off-duty law enforcement officers who work in schools for extra pay.<sup>2</sup>

Based on the above data, we can estimate that 575-750 individuals work in some form as a school safety officer, SRO, or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools. In 2002, there were 271 reviews and reports of misconduct by licensed personnel and 24 instances of misconduct with students in public schools by licensed personnel.<sup>3</sup> Data is unavailable concerning the number of sexual misconduct reports and incidents of sexual misconduct that is a subset of total reports and incidents of misconduct. Because school safety officers and school resource officers are

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<sup>1</sup> Department of Public Instruction

<sup>2</sup> School Resource Officers in North Carolina: School Year 2002-2003  
[http://www.ncsu.edu/cpsv/Acrobatfiles/SRO\\_2002\\_2003.PDF](http://www.ncsu.edu/cpsv/Acrobatfiles/SRO_2002_2003.PDF)

<sup>3</sup> Department of Public Instruction. This number reflects alleged misconduct by licensed personnel. Because there is no requirement that LEAs report instances of misconduct, including instances of sexual misconduct by SSOs or SROs to the State Board of Education or Department of Public Instruction, this number does not reflect reported or substantiated instances for these two groups.

not licensed by the State Board of Education, they are not included in these numbers. Data is unavailable concerning proposed and substantiated sexual misconduct from SSO/SROs.

### **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.

In 2001-2002, there were no convictions under G.S. 14-27.7(b) (sexual acts with a student while employed or volunteering at a school and not lawfully married to the student). It is not known how many additional convictions would result by expanding the current Class G offense to include school safety officers. Under existing law, school safety officers may be covered under the Class A1 offense.

If, for example, there were an additional five Class G convictions per year as a result of the proposed expansion, the combination of active sentences and probation revocations would result in the need for two additional prison beds the first year and four additional prison beds the second year. While some Class A1 misdemeanants serve active sentences in state prisons, most receive non-active sentences or active sentences that are served in local jails. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days.) In contrast, Class G felons serve active state prison sentences or receive intermediate sanctions. In 2001-2002, 41 percent of Class G felony offenders were sentenced to active sentences and 59 percent were sentenced to intermediate sanctions. On average, offenders served between 15 and 19 months. Convictions that increase Class A1 misdemeanors to Class G felonies will result in more frequent, longer active sentences served in state prisons rather than local jails.

In FY 2001-2002, there were nine felony convictions and one misdemeanor conviction under G.S. 14-202.4(a), which are currently punishable as a Class I felony and Class A1 misdemeanor, respectively. It is not known how many additional convictions would result by expanding the current Class I offense to include school safety officers. Under existing law, school safety officers may be covered under the Class A1 offense. If, for example, there were an additional ten Class I convictions per year as a result of the proposed expansion, 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.

Again, while some Class A1 misdemeanants serve active sentences in state prisons, most receive non-active sentences or active sentences that are served in local jails. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days.) In contrast, Class I felons serve active state prison sentences,

receive intermediate sanctions, or receive community punishment. In 2001-2002, 9 percent of Class I felony offenders were sentenced to active sentences, 36 percent were sentenced to intermediate sanctions, and 55 percent received community punishment. On average, offenders served between 8 and 9 months. Convictions that increase Class A1 misdemeanors to Class I felonies will result in more frequent, longer active sentences served in state prisons rather than local jails.

### **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.

AOC data for calendar year 2002 indicate that 7 defendants were charged under current G.S. 14-27.7(b) for a felony sex offense and no defendants were charged for a misdemeanor sex offense. Twenty defendants were charged under current G.S. 14-202.4(a) for the felony offense of taking indecent liberties with a student and 1 defendant was charged for the misdemeanor offense. AOC is unable to determine from these data how many charges involved school safety officers.

For offenses that are brought to trial as Class G felonies, the estimated court cost per trial is \$6,199. For Class G felony offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$307. 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, Department of Public Instruction, State Board of Education, Center for the Prevention of School Violence

**TECHNICAL CONSIDERATIONS:** None.

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**DATE:** April 11, 2003



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