

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 926 (Second Edition)

SHORT TITLE: Concealing a Death/Criminal Offense

SPONSOR(S): Representative Preston

| | | FISCAL IMPACT | | | | |
|--|--|---|-------------------|---------------------------|-------------------|-------------------|
| | | Yes (X) | No () | No Estimate Available () | | |
| | | <u>FY 2005-06</u> | <u>FY 2006-07</u> | <u>FY 2007-08</u> | <u>FY 2008-09</u> | <u>FY 2009-10</u> |
| GENERAL FUND | | | | | | |
| Correction | | Exact amount cannot be determined; no substantial impact anticipated. | | | | |
| Judicial | | Exact amount cannot be determined; no substantial impact anticipated. | | | | |
| LOCAL GOVERNMENTS | | | | | | |
| | | Exact amount cannot be determined; no substantial impact anticipated. | | | | |
| ADDITIONAL PRISON BEDS* | | | | | | |
| | | Exact amount cannot be determined; no substantial impact anticipated. | | | | |
| POSITIONS: (cumulative) | | | | | | |
| | | Exact amount cannot be determined; no additional positions anticipated. | | | | |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments | | | | | | |
| EFFECTIVE DATE: December 1, 2005 | | | | | | |
| *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. | | | | | | |

BILL SUMMARY: This bill would enact new G.S. 14-401.22 to provide that, with the intent to conceal an individual's death, failure to notify a law enforcement authority of the death and secretly burying or otherwise disposing of the body would be a Class I felony. Additionally, any person aiding, counseling, or abetting the concealment of an individual's death would be guilty of a Class A1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

General

Current G.S. 130A-115(e) prohibits the disposal or removal of a dead human body without the authorization of the medical examiner. Administrative Office of the Courts (AOC) data indicates that, in calendar year 2004, 15 defendants were charged with Class 1 misdemeanor public health violations under G.S. 130A-25, which would include violations of G.S. 130A-115(e). No data exists with respect to how many, if any, of these 15 charges were for violations of G.S. 130A-115(e) for unlawfully disposing of a dead human body.

As this bill creates 1) a new Class I felony for failing to notify law enforcement in the event of a death and secretly disposing of the body with intent to conceal the death; and, 2) a Class A1 misdemeanor for aiding, counseling, or abetting such behavior, it would be expected to result in additional charges and convictions and would consequently incur a fiscal impact. Because the offense is new, it is not known how many offenders might be charged and convicted as a result of this bill. However, as the small number of charges for violations of G.S. 130A-115(e) is some indication that disposing of a dead body without proper authorization occurs infrequently, the number of new charges and convictions resulting from this bill is not expected to be significant and the fiscal impact is not expected to be substantial.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, 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.*

Because this bill creates new criminal offenses, the Sentencing Commission has no historical data from which to estimate the number of convictions that might result from this legislation. It is not known how many offenders might be sentenced under this bill, as no data is available regarding the frequency with which individuals secretly bury or otherwise dispose of a dead human body to intentionally conceal the death. However, as noted in the "General" section, due to indications that convictions for a similar offense under G.S. 130A-115(e) are rare, the number of Class I felony and Class A1 misdemeanor convictions under this bill is not expected to be substantial.

Class I Felonies: In FY 2003-04, eleven percent of Class I felony convictions resulted in active sentences. If, for example, there were ten Class I convictions for this proposed 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. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Class A1 Misdemeanors: In FY 2003-04, 24 percent of Class A1 misdemeanors resulted in active sentences and the average active sentence length was 73 days. Offenders with active sentences of less than ninety days are housed in county jails and DOC reimburses counties for housing offenders between thirty and ninety days at a rate of \$18 per day per offender. Because most Class A1 misdemeanants serving active time as a result of this bill would be housed in county jails, Class A1 convictions due to this bill would not be expected to substantially impact prison population.

Non-Active Sentences: In FY 2003-04, 40 percent of Class I convictions resulted in intermediate sanctions and 49 percent in community sanctions; 4 percent of Class A1 misdemeanants received intermediate sanctions and 72 percent received community punishment. Probation officers in the Division of Community Corrections (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts 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 this bill would create new criminal offenses, AOC has no historical data from which to estimate the number of charges that might result from this legislation. As noted in the “General” section, based on the small number of charges for a similar offense under G.S. 130A-115(e), we do not expect a substantial number of new charges to result from this bill. For any new Class A1 misdemeanor or Class I felony charges due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing district and superior court workload, respectively. AOC estimates the costs to process one Class A1 misdemeanor or one Class I felony charge as shown in the table below.

| Offense Class | Settled via Trial | | | Settled via Guilty Plea |
|----------------------|----------------------|------------------|---------|-------------------------|
| | Court/Attorney Costs | Indigent Defense | Total | - |
| Class A1 Misdemeanor | \$2,087 | \$1,502 | \$3,589 | \$286 |
| Class I Felony | \$3,877 | \$1,931 | \$5,808 | \$329 |

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

TECHNICAL CONSIDERATIONS: None

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