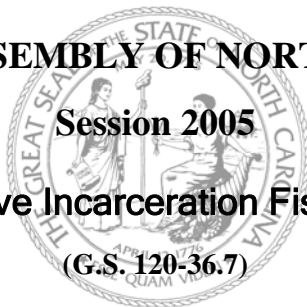


**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2005**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 2880 (Second Edition)  
**SHORT TITLE:** No Prayer for Judgment/Bus Stop Arm Violation.  
**SPONSOR(S):** Representative Folwell

	<b>FISCAL IMPACT</b>				
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>
<b>GENERAL FUND</b>	No significant impact anticipated. See "Assumptions and Methodology," pp. 2-3.				
<b>Correction</b>					
<b>Recurring</b> <b>Nonrecurring</b>					
<b>Judicial</b>	Fiscal impact possible, but amount cannot be determined. See "Assumptions and Methodology," p.2.				
<b>Recurring</b> <b>Nonrecurring</b>					
<b>TOTAL</b>					
<b>EXPENDITURES:</b>	Amount cannot be determined.				
<b>LOCAL GOVERNMENT</b>	Small population increase possible for local jails statewide. See "Assumptions and Methodology," p.2.				
<b>ADDITIONAL PRISON BEDS*</b>	None anticipated.				
<b>POSITIONS: (cumulative)</b>	None anticipated.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction; Judicial Branch.				
<b>EFFECTIVE DATE:</b>	September 1, 2006.				
<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:** Amends G.S. 20-217(e) to prohibit a person convicted of passing a stopped school bus from receiving a prayer for judgment continued under any circumstances, thereby subjecting each violator to the existing Class 1 misdemeanor penalty.

**ASSUMPTIONS AND METHODOLOGY:**

**General**

Under current G.S. 20-4.01(4a), a "conviction" is defined as a third or subsequent Prayer for Judgment Continued (PJC) within any five-year period, or any PJC if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle. A driver of a non-commercial motor vehicle who is granted a PJC for violating G.S. 20-217 would be convicted of a Class 1 misdemeanor upon accruing at least three such PJC's within a five-year period.

**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 a specific bill. For such 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.

H.B. 2880 would restrict current sentencing practice, and subject a defendant to a Class 1 misdemeanor sentence for each and every violation of G.S. 20-217. This is also possible under current law when a defendant's request for a PJC is denied. Calendar year 2005 data indicate that there were approximately 1,160 charges and 520 convictions for failing to stop for a stopped school bus – 330 of these 520 convictions resulted in a PJC verdict.

In response to the proposed sentencing enhancement, the AOC anticipates more rigorous defense and prosecution for each case, thereby increasing court time and the costs of disposal. *For example, if 28% of the 1,160 cases (330 cases) that resulted in PJC's in 2005 were to require an additional half hour of in-court time, this increase could result in an additional \$32,500 in court costs.*<sup>1</sup> However, the number of additional charges and the methods of disposition (trial, plea, dismissal, other) that would result under this bill are unknown. Presently, the AOC estimates total court costs of \$3,153 and \$224 per single Class 1 misdemeanor trial and plea, respectively.

**Department of Correction – Division of Prisons**

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.

In FY 2004/05, 19% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated term served of 30.7 days; 79% of convictions resulted in community sentences and 2% resulted in intermediate sentences. The number of additional convictions for this offense

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<sup>1</sup> Assumes cost of \$1,187 per day in court (6 hour day).

cannot be determined, but could potentially increase relative to prior year totals due to this sentencing restriction. FY 2004/05 data suggests that most new convictions (approximately 79%) would result in community sentences; however, the number of active sentences imposed for this offense could also increase. *Any additional active sentences are not expected to impact the prison population, since offenders serving active sentences of 90 days or less are housed in local jails.*

### **Local Government**

Assuming some additional active sentences as a result of this bill, local jail populations could increase. For example, if 19% of the 330 PJs granted in 2005 were to result in active jail sentences under H.B. 2880, local jails would experience a net increase in population of 63 persons statewide. However, without reliable estimates of additional convictions and cost per bed data from local jails, the impact on jail populations and the associated fiscal impacts for local units cannot be determined.

### **Department of Correction – Division of Community Corrections**

If additional convictions and community sentences occur for this offense, additional costs for probation supervision could also be incurred, though unlikely. Division of Community Corrections data indicates that there are currently no offenders under supervision for this offense. In addition, DCC anticipates that any new sentences are likely to only require unsupervised probation with community service, and would not have a significant fiscal impact.

**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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Fiscal Research Division

**DATE:** June 29, 2006



**Signed Copy Located in the NCGA Principal Clerk's Offices**